

(2000) 10 P&H CK 0123
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 9835 of 1999

Jaspal Singh

APPELLANT

Vs

Superintending Engineer, Public Health Circle

RESPONDENT

Date of Decision : 04-10-2000

Acts Referred:

Industrial Disputes Act, 1947 — Section 10

Citation : (2000) 10 P&H CK 0123

Hon'ble Judges : S.S. Sudhalkar, J; Mehtab S. Gill, J

Bench : Division Bench

Advocate : Mr. G.S. Sathi, for the Appellant; Mr. K.K. Gupta, for the Respondent

Judgement

S.S. Sudhalkar, J.—By this writ petition the petitioner-workman is challenging the order dated November 4, 1997 (copy annexure P-2) and the order dated June 7, 1999 (copy annexure P-5). On the demand notice of the petitioner, a reference was made to the Labour Court. However, on November 4, 1997, no body was present on behalf of the petitioner in the Labour Court and no body appeared on that date for respondents-employer also and hence, the reference was declined for want of prosecution. By the order dated June 7, 1999 (copy annexure P-5) application of the petitioner for recalling the order dated November 4, 1997 was dismissed.

2. Counsel for the petitioner-workman argued that the Labour Court has no jurisdiction to dismiss the award for want of prosecution and has relied upon the case of U.K. Rattan v. Presiding Officer, Labour Court, U.T. Chandigarh, and another reported in 1993(1) R.S.J. 423, wherein it has been held that the question in reference was answered by a Division Bench of this Court which is reproducers under :-

"A Labour Court cannot dismiss a reference for non-prosecution on the ground that the workman concerned was absent of the date of hearing without adjudicating upon the point of dispute referred to it on merits and passing an

award".

3. Counsel for the respondents argued that earlier the Management appeared before the Labour Court and, therefore, the facts of the present of the present case are different from the facts of the case cited above. He also argued that in the absence of the claim statement of the petitioner, the management has not filed reply. He also argued that the application for setting aside the order dated November 4, 1997 was made after a period of 30 days and, therefore, the Labour Court has no jurisdiction to recall the order and hence, this order cannot now be challenged. We do not agree with the view that this case can be put on a different footing than that of K.K. Rattan's case (supra).

4. The facts of the case are not material. What is material in this case is the law laid down which has been quoted above. This being the position, the order dated November 4, 1997 passed by the Labour Court is itself illegal. Even if an application for setting aside the order dated November 4, 1997 was made after 30 days it will not come in the way of the petitioner setting (getting?) the relief from this Court.

5. In view of the above reasons, we allow this writ petition, set aside the orders dated November 4, 1997 and June 7, 1999 and remand the case to the Labour Court, Union Territory, Chandigarh for deciding it in accordance with law after giving an opportunity to the parties to file claim statement, written statement and lead evidence.

Parties to appear before the Labour Court on November 6, 2000.

6. Petition allowed