
(1981) 03 P&H CK 0010
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 1852 of 1974

Krishan Kapoor and Others	Vs	APPELLANT
State of Punjab and Another		RESPONDENT

Date of Decision : 04-03-1981

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 10(1), 2A

Citation : (1981) 3 ILR (P&H) 388

Hon'ble Judges : Gokal Chand Mital, J

Bench : Single Bench

Advocate : B.K. Jhingan, for the Appellant; H.S. Bhalla, for A.G., for the Respondent

Final Decision : Dismissed

Judgement

Gokal Chand Mital, J.—In this petition under Article 226 of the constitution of India on behalf of the employer, two points have been raised before me, (1) that no reference could be made u/s 10(1)(c) of the Industrial Dispute. Act (hereinafter called the act), as the case was not covered u/s 2-A of the Act as the cause of Respondent No. 3 was espoused by the union and therefore, was not an individual dispute and reliance was placed on the judgment of B.R. Tuli, J, in British India Corporation Ltd. v. Mohd. Sodiq. 1973 Cur.L.J. 772 and (ii) that the award was given by the Labour Court behind the back of the Petitioner-Company as it was not served with the proceedings before the labour court.

2. I find no merit in either of the submission. The first point is now covered by a Division Bench judgment of this Court in Algu Ram v. The State of Punjab and Ors. 1977 PLR.283, which has specifically overruled the judgment of B.R. Tuli, J., in British India Corporation's case (supra). The Division Bench has clearly held that even if the dispute is espoused by the union, it still remains an individual dispute within the meaning of Section 2-A of the Act.

3. As regards the second point, in para 8 of the writ petition it is admitted that

the notice was received at the address of the Petitioner-Company and the acknowledgement was signed by some body whose initials could not be made out. That being so, it was the duty of the Petitioner to have moved an application before the Labour Court with all detailed fact so that the matter of non-service could have been gone into-after affording an opportunity to the parties to lead evidence. In the extraordinary jurisdiction of this Court under Article 226 of the Constitution, this matter cannot be enquired into and since the Petitioner Company has failed to move the Labour Court to reopen the matter after satisfying it that it was not served, no case for interference by this Court is made out.

4. Before parting, it may be noticed that the counsel for the management submitted that the workman Respondent No. 3 might have taken employment elsewhere since the passing of the award by the Labour Court till the decision of the writ petition and therefore, he would not be entitled to wages for all this period. This matter is left open for the management to raise in appropriate proceeding before the Competent Court or authority and nothing said in this judgment would be a bar for the competent court or authority to decide whether Respondent No. 3 was gainfully employed since the passing of the award by the Labour Court till this date or not and whether he would be entitled to any wages for that period.

5. With the aforesaid observation this writ petition is dismissed but since no appearance has been put in on behalf of the workman, there will no order as to costs.