
(2016) 02 P&H CK 0387
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 2095/2016

Naresh Kumari

APPELLANT

Vs

The Presiding Officer and Others

RESPONDENT

Date of Decision : 02-02-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) LabLR 267

Hon'ble Judges : Sabina, J.

Bench : Single Bench

Advocate : Raj Kaushik, Advocate, for the Appellant;

Final Decision : Dismissed

Judgement

Sabina, J.—1. Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari challenging the order dated 21.12.2015 (Annexure P-7), whereby, application moved by respondents No. 2 to 4 for setting aside the ex-parte award dated 1.4.2014, was allowed. Learned counsel for the petitioner has submitted that respondents No. 2 to 4 had not been diligent in pursuing their case. In fact, respondents No. 2 to 4 were earlier proceeded ex-parte vide order dated 19.7.2011 and the said order was set aside on an application moved by respondents No. 2 to 4. Thereafter, respondents No. 2 to 4 had again failed to appear before the Tribunal on 23.10.2012. The Tribunal has erred in allowing the application moved by respondents No. 2 to 4 for setting aside ex parte award in favour of the petitioner vide the impugned order.

2. Petitioner had raised an industrial dispute challenging his termination by serving a demand notice. The appropriate Government referred the dispute for adjudication to the Industrial Tribunal, Patiala. Petitioner submitted its statement of claim before the Tribunal and the management filed its written statement. Issues were framed on the pleadings of the parties. However, none appeared on behalf of the respondents-management on 19.07.2011 and it was proceeded ex-

parte. The said order was set aside on an application moved by the Management. Thereafter, Management again failed to appear before the tribunal on 23.10.2012 and was proceeded ex-parte. On the basis of the evidence led by the petitioner, the Tribunal answered the reference in favour of the petitioner vide award dated 1.4.2014. Petitioner was ordered to be reinstated in service but without back-wages. Thereafter, respondents No. 2 to 4 moved an application Annexure P-5 for setting aside the ex-parte award dated 01.04.2014 (Annexure P-4). Notice of the application was issued.

3. On the pleadings of the parties, following issues were framed by the Tribunal-

"1. Whether the ex-parte order dated 1.4.2014 is liable to be set aside? OPA/R

2. Whether the application is not maintainable? OPW

3. Relief."

Parties led their evidence in support of their respective pleas.

The learned Tribunal while allowing the application held that as per AW-2 Rupinder Pal Singh Bal, Pardeep Kaur was deputed to pursue the case and, although, the said official appeared before the Tribunal on each and every date but failed to get her presence marked. The absence of the department before the Tribunal was not intentional. The learned Tribunal has noticed that the respondents were contesting the case initially and it would be in the interest of justice, if they were permitted to appear and lead their evidence so that the case could be decided on merits. The Tribunal has allowed the application subject to payment of Rs. 3,000 as costs. The view taken by the Tribunal is just and fair. Now the respondents will be able to prove the pleas taken by them in their written statement by leading their evidence and the Tribunal would be in a position to decide the lis between the parties in a more effective manner and on merits after hearing both the sides.

In the facts and circumstances of the present case, the impugned order does not suffer from the vice of illegality and calls for no interference.