

(2013) 07 P&H CK 0382
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 266 of 1993

The Sheron CASS Cooperative Agricultural Services Society Ltd. APPELLANT

Vs

Gurdev Singh and Another RESPONDENT

Date of Decision : 18-07-2013

Acts Referred:

Citation : (2013) 07 P&H CK 0382

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Final Decision : Partly Allowed

Judgement

Rajiv Narain Raina, J.—The challenge in this petition is to an award dated 9.10.1992 passed by the Presiding Officer, Labour Court, Patiala, in reference No. 251/90. The management was ex parte before the labour Court. Ex parte evidence of the respondent-workman was recorded to support his version in the statement of claim. In the absence of rebuttal evidence, the deposition of the workman was believed by the labour Court as correct and award of reinstatement was passed with continuity in service and full back wages. Aggrieved by the ex parte award, the management filed an application for setting aside the ex parte award on the ground that the labour Court never sent summons to the management and therefore, the ex parte award is liable to be set aside. The application was opposed by the workman. The labour Court framed two issues; the principal one of which was whether there were sufficient grounds for setting aside the ex parte award.

2. In order to prove issue No. 1, the petitioner-society/respondent before the labour Court examined Sh. Ajmer Singh Ahlmad of the labour Court itself. Ajmer Singh stated that no registered letter was sent to the management for appearance in this case. On this ground alone, the ex parte award ought to have been set aside and the matter remitted to the labour Court for passing a fresh award in the presence of both the parties. However, the labour Court sustained

the objection of the workman that the application for setting aside the ex parte award was presented by one Gurdev Singh Salesman of the respondent-society who had no authority to file the application on behalf of the Society. The application was dismissed on this ground without dealing with the major premise that the management had no notice of the case.

3. In these circumstances, this Court is of the view that the order dated 9.10.1992 passed by the Presiding Officer, Labour Court, Patiala cannot be sustained. The dismissal of the application is on two technical a ground in the presence of testimony of a court official who stepped into the witness box and stated that no registered letter was sent to the management. Consequently, this writ petition is partly allowed. Both the impugned award and order are set aside. The matter is remitted back to the labour Court for passing a fresh award after issuance of notice to the parties. Since both the learned counsel are not present in this Court, the labour Court on receipt of this order will issue process to the respective parties for appearance before it. Since the matter has remained pending in this Court for 20 years, a direction is issued to the labour Court to decide the matter expeditiously on remand and preferable within one year, if not sooner, from the date both parties appear.