

Ran Singh Vs. State of Haryana and Others

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Court : Punjab and Haryana

Decided On : Jul-01-2014

Appellant : Ran Singh

Respondent : State of Haryana and Others

Judgement :

CWP No.16888 of 2013 -1- IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH CWP No.16888 of 2013 Date of decision:01.07.2014 Ran SinghPetitioner Versus State of Haryana and othersRespondents CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA Present: Mr. Shiv Kumar, Advocate, for the petitioner. Mr. Kshitij Sharma, Assistant Advocate General, Haryana Mr. Ram Chander, Advocate for respondent no.4. **** G.S.Sandhawalia J.(Oral) 1. The challenge in the present petition is to the order dated 31.1.2013 (Annexure P/3) whereby the Labour Court, Faridabad dismissed the claim for want of prosecution. The application for restoration of the same was also dismissed on account of non appearance vide order dated 7.2.2013 (Annexure P/5) and thereafter an application for restoration of the application was also dismissed by the Labour Court, Faridabad vide order dated 14.5.2013 (Annexure P/8) on the ground that explanation given by the counsel was not correct.

2. The facts of the present case would go on to show the travails of the litigant who had a mere two years of service as he was appointed as Chowidar way back on 27.8.1997 and remained in service as such till 15.11.1999 and after that he was not allowed to join his duties. The petitioner-workman thereafter filed Civil Suit in

February, 2000 which was got dismissed as withdrawn on 14.11.2007. Thereafter, Civil Writ Petition No.14707 of 2011 was filed before this Court which was allowed and reference was sent for adjudication. On the basis of that reference in the year 2011, the claim statement was preferred Kumar Pardeep 2014.07.10 11:18 I attest to the accuracy and integrity of this document Punjab and Haryana High Court, Chandigarh CWP No.16888 of 2013 -2- before the Labour Court, Faridabad as noticed above was dismissed for want of prosecution on 31.1.2013 on account of non appearance of the workman. In the application filed for restoration by the authorised representative the plea taken was that there was heavy fog and the authorised representative had to come from Palwal as he was busy in some other case titled Jagat Singh Vs. Budh Ram etc.

. at Palwal. The said application for restoration was taken up on 7.2.2013 and on that day since the authorised representative did not appear, the same was dismissed. Resultantly, an application dated 15.2.2013 for restoration of the application which had been dismissed on 7.2.2013 was filed on 18.2.2013. The said application did not find favour with the Labour Court, Faridabad on the ground that the explanation given was that the wrong date as 12.2.2013 instead of 7.2.2013 had been noted, but counsel had failed to show this fact from his diary and, therefore, the application was dismissed on 7.2.2013 correctly. The explanation, thus, was not accepted by the Labour Court vide order dated 14.5.2013.

3. Though the workman and his authorised representative have been totally lax in prosecution of the case but one cannot lose sight of the fact that the workman's legal right to seek redressal cannot be taken away due to the fault of authorised representative. It is settled principle of law that the rules of procedures are handmaids of justice and the case should be decided on merits rather being dismissed on technical grounds. The loss which is there is of the workman as he has lost several years of service which could have been granted to him in the form reinstatement if it was to be ordered at some stage. A Division Bench of this Court in K.K.Rattan Vs, Presiding Officer, Labour Court, U.T.Chandigarh and another 1993(1) RSJ423has held that the reference Court should determine the reference on merits and not dismiss the same for default or non prosecution. In such

circumstances, this Court is of the opinion that the initial order dated 31.1.2013 (Annexure P/3) dismissing the reference for want of prosecution was not justified and the Labour Court should have firstly Kumar Pardeep 2014.07.10 11:18 I attest to the accuracy and integrity of this document Punjab and Haryana High Court, Chandigarh CWP No.16888 of 2013 -3- imposed costs upon the workman and cautioned him and then proceeded ahead and answered the reference rather than dismissing for want of prosecution. The subsequent orders dated 7.2.2013 (Annexure P/5) and dated 14.5.2013 (Annexure P/8) are also not justified as the Labour Court could have again imposed costs upon the workman for his lax attitude. As noticed above, the workman has been fighting for his right and due to ill informed advice firstly he had approached the wrong forum and then due to non appearance of his authorised representative, his reference was dismissed for want of prosecution.

4. Accordingly, the present writ petition is allowed and orders dated 31.1.2013 (Annexure P/3), dated 7.2.2013 (Annexure P/5) and dated 14.5.2013 (Annexure P/8) are quashed. The Labour Court is directed to decide the reference on merits. However, it is made clear that in case any relief is to be granted, the respondent-management shall not be burdened with any back wages for the period from 31.1.2013 till today.

5. The parties are directed to appear before the Labour Court, Faridabad on 18.8.2014.

6. A copy of this order be sent to the Labour Court, Faridabad for necessary action. 01.07.2014 (G.S.SANDHAWALIA) Pka JUDGE Kumar Pardeep 2014.07.10 11:18 I attest to the accuracy and integrity of this document Punjab and Haryana High Court, Chandigarh

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