

(2000) 11 P&H CK 0074

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 15989 of 2000

M/s. Partap Publications Limited

APPELLANT

Vs

Presiding Officer, Labour Court,
U.T. Chandigarh

RESPONDENT

Date of Decision: Nov. 22, 2000

Acts Referred:

- Constitution of India, 1950 - Article 226

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

Bench: Division Bench

Advocate: Mr. Arun Palli, for the Appellant;

Judgement

S.S. Sudhalkar, J.

This writ petition has been filed by the employer challenging the order dated September 28, 2000 (copy annexure P-6) passed by the Labour Court vide which it declined to treat the question of territorial jurisdiction as a preliminary issue.

2. The Labour Court has observed that the application for treating the issue of territorial jurisdiction as a preliminary one was filed at a belated stage. The issue was framed on December 22, 1997. The evidence (examination-in-chief of the workman recorded on January 15, 1999) in this case started on January 15, 1999. The date on which an application was submitted, as mentioned by the Labour Court, is September 26, 2000. The Labour Court declined the request of the petitioner to treat the issue of jurisdiction as a preliminary one as it was filed at a belated stage. The Labour Court has observed that the prayer that issue of jurisdiction to be treated as a preliminary one could have been made by the petitioner much prior to the filing of the application. It has been observed that an application was moved by the petitioner before the Labour Court after a lapse of one and half years, i.e., on September 26, 2000, when the management was granted last opportunity to cross-examine the workman. It has been observed that the application was moved with the sole motive to delay the proceedings and to get an adjournment as the last

opportunity was granted to it.

3. Learned counsel for the petitioner has argued that the issue of jurisdiction ought to have been treated as a preliminary issue. The issue of territorial jurisdiction is much an issue of fact. He has relied upon the case of Gurcharan Singh and another v. Hardial Singh 1973 P.L.R. 603. It has been held by the learned Single Judge of this Court in that case that "if the trial of a preliminary issue involves the leading of some evidence also by the parties, that cannot be a ground for not treating the issue as a preliminary one." In that case, an application moved for treating the issue as a preliminary one was declined by the Court below and that order was challenged before this Court. However, even if the issue of jurisdiction could be treated as a preliminary one, the same cannot be made a tool for delaying the proceedings pending in the Court.

4. Learned counsel for the petitioner has placed reliance upon a case rendered in Chowdappa T. and another v. Presiding Officer, Labour Court, Bangalore and another 1978 LabIC. 1452. This case has been decided by the learned Single Judge of the Karnataka High Court. It has been held therein that it is the duty of Labour Court to decide validity of domestic enquiry as a preliminary issue before proceeding to hear and decide reference on merits.

5. This is not a case regarding the question of territorial jurisdiction. Moreover, the observation made by the Labour Court regarding the application being moved for delaying the matter will come in the way even if that principle has to be applied. We, at present, do not express any opinion whether the view of the Karnataka High Court will be proper or not because we do not find it necessary to consider the same in this case. Moreover, even if the issue is not treated as a preliminary one, the petitioner will not suffer because if it has a case, then the same can be taken into account at the time of decision on all issues.

In view of the foregoing discussion, we do not find any merit in this petition. The writ petition is, therefore, dismissed.

6. Petition dismissed.