

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CWP No.11006 of 2007**

DATE OF DECISION: March 31, 2008

PUNJAB SCHOOL EDUCATION BOARD

...PETITIONER

VERSUS

P.O.L.C. GURDASPUR & OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.
HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA.**

PRESENT: MR. KANWALJIT SINGH, SR. ADVOCATE WITH
MR. I.S. GILL, ADVOCATE FOR THE PETITIONER.
MS. SWATI GUPTA, ADVOCATE FOR RESPONDENT NO.3.

ASHUTOSH MOHUNTA, J.(ORAL)

The petitioner is aggrieved by the award (Annexure P-2) passed by the Presiding Officer, Labour Court, Gurdaspur dated 20.4.2005, vide which termination of services of the workman were held to be illegal and he was also held entitled to continuity of service alongwith 50% back wages. Counsel for the petitioner submits that the award was passed ex-parte against the petitioner. It has been averred that the petitioner was never served in this case nor did they ever refuse to accept the summons/registered letters. It has also been averred that neither any munadi or publication was effected for effecting service on the petitioner.

The petitioner filed an application for setting aside the ex-parte award which was rejected vide order (Annexure P-5) on the ground that as the award has been published, therefore, the Labour Court has become *functus officio*.

Counsel for the respondent No.3, however submits that the petitioner was duly served and hence the ex-parte award is not liable to be set aside. It has also been averred that they have every knowledge of the proceedings and despite that they did not appear before the Labour Court and hence the ex-parte award was passed.

After going through the impugned award and the averments made in the writ petition, we are of the considered opinion that the petitioner was not properly served. Apart from the above, we are also of the opinion that the matter requires to be decided afresh on merits. Resultantly, we quash the orders (Annexures P-2 and P-5) and remand the case back to the Labour Court for decision afresh on merits.

The parties are directed to appear before the Labour Court, Gurdaspur on 1.5.2008. The petitioner shall, however, pay costs of Rs.10,000/- to the respondent-workman before the Labour Court.

(ASHUTOSH MOHUNTA)
JUDGE

March 31, 2008
Gulati

(KANWALJIT SINGH AHLUWALIA)
JUDGE