

Court No. - 33

Case :- WRIT - C No. - 28075 of 2025

Petitioner :- M/S Omrao Industrial Corporation Pvt. Ltd.

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Naman Agarwal, Nipun Singh

Counsel for Respondent :- C.S.C., Sachin Dubey

Hon'ble Prakash Padia, J.

1. Heard Sri Nipun Singh along-with Sri Naman Agarwal, learned counsel for the petitioner and Sri Sachin Dubey, learned counsel for the respondent no.3.

2. In the proceedings initiated by the respondent no.3-Shri Lal Ji Prasad Bajpai before the respondent no.2 namely Presiding Officer, Labour Court No.4, Kanpur, U.P., an ex-parte award was made against the petitioner on 07.08.2024. As soon as petitioner came to know regarding the aforesaid award he moved a recall application, which was also rejected by the respondent no.2 vide order dated 19.02.2025. Aggrieved against the aforesaid, petitioner has preferred present writ petition.

3. It is argued by counsel for the petitioner that the orders were passed against the petitioner in absence of any written statement, evidence or cross examination. The award in question passed by the respondent no.2 is a non speaking order and no cogent findings whatsoever has been recorded before passing the aforesaid award. It is further argued that the award has been passed on the basis of presumptions and without any iota of evidence substantiating the service of summons upon the petitioner.

4. In this view of the matter, it is argued that petitioner be directed to submit their written statement and other relevant papers and documents before the respondent no.2 and thereafter respondent no.2 be directed to pass a fresh order in accordance with law.

5. It is vehemently argued by Sri Sachin Dubey, learned counsel for the respondent no.3 that the orders, which are under challenge in the present writ petition are absolutely legal order and does not call for any interference by this Court specially under Article 226 of the Constitution of India. It is very fairly argued by him that various legal aspect of the matter were not taken into consideration by the respondent no.2 while passing the aforesaid order.

6. Accordingly, even though Rule 12 (9) of the U.P. Industrial Disputes Rules, 1957 provides that if the affidavit accompanying the written statement of the workman is not rebutted by the employer, the Labour Court shall presume the contents of the affidavit to be true and make an award accepting the facts stated in the written statement, but, it cannot thus be construed to mean that the entire averments made in the affidavit, without any documentary or oral evidence, have to be accepted in toto without the Labour Court examining the same judiciously. The labour laws of this country may be welfare legislation which may not require a strict procedure to be followed as held by the Supreme Court in the case of the ***Bharat Bank Ltd., Delhi Vs. The Employee of the Bharat Bank Ltd. Delhi and the Bharat Bank Employees' Union, Delhi AIR 1950 S.C. 188*** (which has been relied upon by the learned counsel for the respondents) but the same would not mean that the procedure of accepting and relying of evidence before the Court is not to be followed.

7. The entire award is bereft of any discussion on the merits of the case. A perusal of the award shows that only the case of the workman has been set out and without analytically examining the material on record and recording reasons for its conclusion, the claim of the employer has been allowed simply on account of the provisions of Rule 12 (9) of the U.P. Industrial Disputes Rules, 1957. The said award being totally unsupported by reasons or discussions, cannot be said to be an award on merits of the case. Failure to give reasons would amount to denial of justice. Jumping to the conclusion that the termination of the workman was illegal after merely setting out the factual aspect of the case, and without discussing the

merits, would render the award illegal and unsustainable in law. There is no analytical examination of the merits of the claim which shows total non-application of mind.

8. In this view of the matter and also in the interest of justice, the order dated 17.02.2025 and award dated 07.08.2024 passed by respondent no.2 is set aside by imposing a cost of Rs.5,000/- upon the petitioner, which should be paid by the petitioner to the respondent no.3 within a week and submit proof of receipt before the court below.

9. Thereafter, petitioner will submit written statement and all other documents before the respondent no.2 within six weeks. The reply to the written statement may be exchanged within one month thereafter. Thereafter, respondent no.2 shall proceed to decide the matter in accordance with law, as expeditiously as possible, preferably within six months from the date of exchange of affidavits.

10. The writ petition is allowed.

Order Date :- 21.8.2025

Pramod Tripathi