



147 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-9277-2025

Date of Decision : 01-04-2025

**M/S MANAGING DIRECTOR NYX SOFTWARE DESIGN PRIVATE
LIMITED.**

.....Petitioner

VERSUS

SH KAILASH CHANDER SINGH AND ANOTHER

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Divanshu Jain, Advocate and
 Mr. Arjun Sangwan, Advocates
 for the petitioner.

 Mr. Praveen Kumar Bhatia, Advocate
 for the respondents.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the orders dated 07.11.2022 (Annexure P-3) and order dated 12.09.2023 (Annexure P-6) by which, the petitioner was proceeded ex parte as well as to the order by which, the application seeking permission to join the proceedings was also dismissed for non-prosecution along with another application filed for recalling the order, which had also been dismissed vide order dated 04.03.2025 annexed herein as Annexure P-8.

2. Learned counsel for the petitioner-Corporation submits that though, there has been a delay in the action required to be performed by the petitioner-Corporation but the same was due to certain facts that the counsel engaged by the petitioner-Corporation, kept on assuring petitioner-Corporation that he would take the required action for allowing the petitioner-Corporation to join the proceeding but actually no one appeared on actual dates of hearing which led to the passing of the three adverse orders against the petitioner.

3. Learned counsel for the petitioner argues that the respondent-employee be suitably compensated for the delay caused to him and the petitioner-Corporation be allowed to join the proceedings.

4. Notice of motion.

5 Mr. Parveen Kumar Bhatia, Advocate accepts notice on behalf of the respondents by filing his Vakalatnama. The same is taken on record.

6. Learned counsel for the respondent-employee submits that employee is suffering due to inaction on the part of the petitioner-Corporation and despite various opportunities given to the petitioner-Corporation by the Tribunal, no opportunity was availed by the petitioner-Corporation, due to which, three adverse orders dated 07.11.2022(Annexure P-3), 12.09.2023 (Annexure P-6) and 04.03.2025 (Annexure P-8) have been passed and all are due to inactions on the part of petitioner only.

7. Learned counsel for the respondent-employee submits that though, the petitioner-Corporation is undertaking to suitably compensate the respondent(s)-Workmen for delay caused to him, the petitioner be also directed that henceforth, the proceedings should be decided as expeditiously

as possible and that the petitioner-Corporation shall cooperate with the proceedings before the Industrial Tribunal.

8. I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

9. The orders dated 07.11.2022(Annexure P-3), 12.09.2023 (Annexure P-6) and 04.03.2025 (Annexure P-8) which are under challenge by the petitioner-Corporation by way of the present petition are with regard to the proceedings of the petitioner which was proceeded ex parte which proceedings was in respect to the claim filed by the respondent(s)-Workmen. Despite various opportunities given to the petitioner-Corporation, the petitioner-Corporation did not avail the opportunity to join the proceedings, which has led to passing of three adverse orders against the petitioner dated 07.11.2022(Annexure P-3), 12.09.2023 (Annexure P-6) and 04.03.2025 (Annexure P-8).

10. It should be noted that the effort should be always made that lis between the parties are decided on merits rather than being proceeded ex parte so that, due justice is given to the parties litigating. Though, the situation in which the petitioner-Corporation is at the moment is the creation of the petitioner-Corporation only and the respondent(s)-Workmen cannot be blamed for the same but as the petitioner-Corporation has undertaken to compensate the respondent(s)-Workmen for the delay caused so as to allow the petitioner-Corporation to participate in the proceedings, the said offer is fair and has been accepted by the learned counsel appearing on behalf of the respondent(s)-Workmen.

10. Consequently, the impugned orders dated 07.11.2022 (Annexure P-3), 12.09.2023 (Annexure P-6) and 04.03.2025 (Annexure P-8)

are set aside. The petitioner-Corporation is allowed to join the proceedings pending before the Labour Court, SAS Nagar, Mohali.

11. The petitioner is directed to compensate the respondent(s)-Workmen with the payment of Rs.25,000/- as cost. The said cost will be paid by the petitioner-Corporation to the respondent-employee before the next date of hearing before the Labour Court which is fixed as 15.04.2025. The Labour Court will only allow the petitioner-Corporation to participate in the proceedings in case, the payment of cost, as directed by this Court. In case, the cost is not paid, the present petition will be treated to have been dismissed.

12. Pending application, if any, also stands disposed of.

01-04-2025

Sapna Goyal

(HARSIMRAN SINGH SETHI)

JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO