



2026:CGHC:10349

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MA No. 179 of 2025

Jindal Steel And Power Limited Through General Manager (Hres), Jindal Steel And Power Limited, Patrapali Raigarh, Distt. Raigarh, Chhattisgarh. (The Name Of The Company Has Changed And The Same Is Known By Jindal Power Limited)

Appellant(s)

versus

Umesh Kumar Chauhan S/o Nansingh Chauhan Aged About 44 Years R/o Village Kosampali, Tahsil And Distt. Raigarh, Chhattisgarh.

Respondent(s)

AND

MA No. 177 of 2025

Superior Fire And Security Services Private Limited Through Chief Security Officer, Central Barrier, Patrapali Raigarh, District : Raigarh, Chhattisgarh

Appellant(s)

Versus

Umesh Kumar Chauhan S/o Nansingh Chauhan Aged About 44 Years R/o Village- Kosampali, Tahsil And District- Raigarh, Chhattisgarh

Respondent(s)

**(Cause-title taken from Case Information System)**

For Appellant in MA No. : Mr. Shashank Thakur, Advocate
179/2025

For Appellant in MA No. : Mr. Atanu Ghosh, Advocate
177/2025

For Respondent : Mr. Shyamta Prasad Sannat, Advocate

Hon'ble Shri Justice Bibhu Datta Guru**Judgment on Board****27/02/2026**

1. Since both the appeals arise out of the common order dated 25/07/2025 passed by the Labour Court, Raipur (C.G.), they are being heard together and are being decided by this common judgment..
2. These appeals under Order 43 Rule 1(d) of the Code of Civil Procedure, 1908 are directed against the common order dated 25/07/2025 passed in Case No. 09/ID Act/2023/Misc. and Case No. 10/ID Act/2023/Misc. by the Labour Court, Raigarh (C.G.), whereby the learned Labour Court has dismissed the applications preferred by the appellants under Rule 10B(9) read with Rule 24 of the Industrial Disputes (Central) Rules, 1957 (for short 'the Rules, 1957') read with Order IX Rule 13 and Section 151 of the Code of Civil Procedure, 1908.
3. (a) Facts of the case essential for adjudication of these appeals are that the respondent/workman preferred a statement of claim before the learned Labour Court in Case No. 01/ID Act/2022/Ref., *inter alia* pleading that he was employed as Deputy Security with Superior Fire and Security Services (SFSS), Patrapali, Raigarh with effect from 27-12-2008. It was averred that his services were terminated on 20-11-2020



on the ground that he was underweight. The workman further asserted that he had completed 240 days of continuous service in a calendar year and that his termination was effected without compliance of the mandatory provisions contained in Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as “the ID Act”). On such pleadings, he prayed for reinstatement in service with back wages.

(b) During the pendency of the said proceedings, the appellants herein/employer were proceeded *ex parte* by order dated 17-08-2022. Thereafter, the learned Labour Court was pleased to pass an award dated 10-12-2022 (pronounced on 10-01-2023), whereby the termination of the workman was held to be illegal and was set aside. The learned Labour Court directed reinstatement of the workman in service, however, without back wages.

(c) According to the appellants, they had no knowledge of the *ex parte* proceedings or of the award passed by the learned Labour Court. It is stated that a copy of the award, along with an application seeking reinstatement, was received by the appellant through registered post, whereupon, for the first time on 29-03-2023, it came to know about the passing of the *ex parte* award. Thereafter, upon obtaining certified copies of the relevant records, the appellant came to learn that it had been proceeded against *ex parte* by order dated 17-08-2022 and that the final award had been rendered in its absence. Thereafter, the appellant preferred an application before the learned Labour Court under Rule 10B(9) read with Rule 24 of the Rules, 1957 read with Order IX Rule 13 and Section 151 of the Code of Civil Procedure, praying for setting



aside the *ex parte* award and for affording an opportunity of hearing to the appellant.

(d) The learned Labour Court, Raigarh, by common order impugned dated 25-07-2025, dismissed the said applications preferred by the appellant for setting aside the *ex parte* award. Aggrieved by the said order, the appellants have preferred the present Appeals.

4. (i) Learned counsel for the appellant submits that the impugned order dated 25-07-2025 (Annexure A-1) passed by the learned Judge under the Industrial Disputes Act is perverse, contrary to the material available on record and unsustainable in law. It is contended that a perusal of the order sheets of Case No. 01/ID Act/2022/Ref. would clearly demonstrate that on 08-07-2022 notices were directed to be issued to the appellant and the matter was fixed for 17-08-2022. On 17-08-2022, it was specifically recorded that the claimant produced the postal track consignment report, however, service report was awaited and that it would be appropriate to wait for the same. The matter was thereafter fixed for filing reply to the statement of claim on 08-09-2022. However, all of a sudden, on the very same date i.e. 17-08-2022 at about 5:00 PM, upon a request made by the counsel for the respondent/workman, the matter was again taken up and the appellant company was declared *ex parte*, and the case was fixed for *ex parte* evidence on 08-09-2022. It is submitted that such a course adopted by the learned Labour Court is wholly irregular and contrary to record. Learned counsel further submit that in the application seeking setting aside of the *ex parte* award, the appellant had specifically pleaded that



no notice for appearance on 17-08-2022 was ever served upon it.

Despite such specific averment regarding non-service of notice, the learned Labour Court erroneously rejected the application without properly adjudicating the issue of service.

(b) It is further argued by learned counsel appearing in MA No.179/2025 that the respondent/workman was never employed with the appellant company and no order of appointment was ever issued in his favour. Thus, the appellant was not even a necessary party to the dispute; nevertheless, an *ex parte* award came to be passed against it without affording any opportunity of hearing. Learned counsel submits that the appellant has always been ready and willing to file its reply and contest the matter on merits. However, it has been wrongly proceeded against *ex parte*, and thereafter its application for recall has been dismissed mechanically without due consideration of the specific grounds raised therein, particularly the plea regarding non-service of notice and statement of claim. The impugned order, therefore, suffers from non-application of mind and is liable to be set aside.

5. Learned counsel for the respondent, *ex adverso*, submits that the respondent was duly employed under the appellant and that the learned Labour Court has rightly passed the impugned order. It is contended that no interference is warranted in the present appeals.
6. I have heard learned counsel for the parties at length and have carefully perused the impugned order as well as the material available on record.



7. A perusal of the order sheet dated 08.07.2022 reveals that the first party (workman), along with counsel, was present. It was directed that upon proper filing of process (talwana) by the first party, notice be issued to the second party. The matter was thereafter fixed for filing reply to the statement of claim on 17.08.2022.
8. On 17.08.2022, the order sheet indicates that the first party was represented by counsel. It is specifically recorded that notice had been issued to the second party by registered post; however, the service report was awaited. The counsel for the applicant/workman produced a postal track consignment report regarding dispatch of notice. Upon consideration, the learned Labour Court recorded that the service report was awaited and fixed the matter for filing reply to the statement of claim on 08.09.2022. However, all of a sudden, on the very same date i.e., 17.08.2022 at about 5:00 PM, the matter was again taken up upon submission made by the counsel for the first party that the second party had knowledge of the proceedings and remained absent despite service. It is recorded that the second party was called out and none appeared on its behalf. Thereafter, the learned Labour Court proceeded to order ex parte proceedings against the second party and fixed the matter for ex parte evidence of the first party on 08.09.2022.
9. From the above sequence, it prima facie appears that earlier during the day on 17.08.2022, the learned Labour Court had consciously recorded that the service report was awaited and deemed it appropriate to wait for confirmation regarding service of notice. Despite such observation, later on the same day, the appellant was proceeded ex parte primarily on the



basis of a track consignment report produced by the workman's counsel, without there being a formal satisfaction recorded regarding due service of notice.

10. The propriety of declaring a party *ex parte* on the very date when the Court itself had observed that service confirmation was awaited, and without a clear finding of effective service, assumes significance in the present appeal.
11. Clause 27 of the General Clauses Act, 1987 has defined about "Meaning of Service by post." For the sake of convenience, the same is reproduced hereunder:-

"27. Meaning of service by post.- Where any Central Act or Regulation made after the commencement of this Act authorises or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post."

12. It is apparent from Clause 27 of the General Clauses Act, 1897 that where a document is required to be served by post, service shall be deemed to have been effected only when it is shown that the letter containing the document was properly addressed, prepaid and posted by registered post. The presumption of service is, therefore, conditional



upon proof of proper dispatch in the manner contemplated under the provision.

13. In the present case, although it is recorded that notice was issued by registered post, the order sheet dated 17.08.2022 specifically notes that the service report was awaited. In absence of a confirmed service report and without recording a categorical satisfaction that the notice was duly served in accordance with Clause 27, the learned Labour Court could not have invoked the presumption of deemed service.
14. The very fact that earlier during the day the Court considered it appropriate to await the service report demonstrates that service had not been conclusively established. Therefore, proceeding ex parte against the appellant on the same date, without clear proof of service as contemplated under Clause 27 of the General Clauses Act, cannot be said to be in consonance with law.
15. The Supreme Court in the matter of ***Grindlays Bank Ltd. v. Central Government Industrial Tribunal and Others, 1980 (Supp) SCC 420*** has held thus at para 11:

“11) The language of Rule 22 unequivocally makes the jurisdiction of the Tribunal to render an ex parte award conditional upon the fulfilment of its requirements. If there is no sufficient cause for the absence of a party, the Tribunal undoubtedly has jurisdiction to proceed ex parte. But if there was sufficient cause shown which prevented a party from appearing, then under the terms of Rule 22, the Tribunal will have had no jurisdiction to proceed and consequently, it must necessarily have



power to set aside the ex parte award. In other words, there is power to proceed ex parte, but such power is subject to the fulfilment of the condition laid down in Rule 22....

(Emphasis added)

16. By applying the aforesaid law laid down by the Supreme Court, it is held that if there is sufficient cause shown which prevented a party from appearing before the Labour Court, the Labour Court will have no jurisdiction to proceed and consequently, it must necessarily have the power to set aside the ex parte award.
17. In view of the foregoing discussion, this Court is of the considered opinion that the learned Labour Court was not justified in proceeding *ex parte* against the appellant without recording a clear satisfaction regarding due service of notice in accordance with law. The material available on record indicates that the service report was awaited and yet, on the very same day, the appellant was directed to be proceeded against *ex parte*. Such course adopted by the learned Labour Court has resulted in denial of reasonable opportunity of hearing to the appellant.
18. It is well settled that adjudication under the Act, 1947 involves determination of valuable rights of the parties and, therefore, the principles of natural justice are required to be scrupulously followed. An order having civil consequences ought not to be sustained if passed without ensuring proper service and affording adequate opportunity to contest.



19. Applying the well settled principles of law to the facts of the present case and for the reasons stated hereinabove, the impugned common order dated 25-07-2025 passed by the learned Labour Court, Raigarh (C.G.) in Case No. 09/ID Act/2023/Misc. and Case No. 10/ID Act/2023/Misc. is hereby set aside. Consequently, the applications preferred by the appellants for setting aside the ex parte award stand allowed.
20. The matter is remitted to the learned Labour Court for consideration afresh. The learned Labour Court shall afford reasonable opportunity of hearing to both parties and thereafter decide the matter in accordance with law and on its own merits, without being influenced by any observations made in the present order.
21. The parties are directed to appear before the learned Labour Court on **29/04/2026**, and the learned Labour Court shall endeavour to dispose of the matter expeditiously.
22. Consequently, both the appeals are **allowed**.
23. Registry is directed to transmit the original records, if any, to the concerned Court along with a copy of this order forthwith, for necessary compliance.

Sd/-
(Bibhu Datta Guru)
Judge



Head Note

If there is sufficient cause shown which prevented a party from appearing before the Labour Court, the Labour Court will have no jurisdiction to proceed and consequently, it must necessarily have the power to set aside the *ex parte* award.