

**2023 STPL(Web) 35 HP
HIGH COURT OF HIMACHAL PRADESH**

(HON'BLE MR. JUSTICE SANDEEP SHARMA, J.)

HEADMASTER, THE LAWRENCE SCHOOL

Petitioner

VERSUS

PAWAN KUMAR

Respondent

CMPMO No. 359 of 2022-Decided pm 19-7-2023

Evidence

Indian Evidence Act, Section 45 – Evidence - Verification/Comparison with admitted signature –
Rejection of application by trial court – Industrial dispute in Labour Court – Signature related to workmen – Held: Though to ascertain the factual position, there is/was no harm for the court to send the signatures of the respondent-workman to hand writing expert, but since evidence of the petitioner is yet to be recorded, no illegality can be said to have been committed by the court below while rejecting the application. Necessity, if any, of sending the signatures to hand writing expert, as prayed for, by the petitioner-employer, would be seen by the court after recording of the evidence. Liberty granted to petitioner to make fresh prayer for getting the signature of the respondent-workman compared, if required after completion of the evidence of both the parties.

(Para 5, 6)

Advocate(s): For the Petitioner: Mr. Umesh kanwar, Advocate.

For the Respondent: Mr. Anuj Gupta, Advocate.

JUDGMENT

Sandeep Sharma, J. (Oral)-Being aggrieved and dissatisfied with order dated 8.7.2022, passed by the learned Presiding Judge/Labour Court, Shimla camp at Solan, HP, whereby an application under Section 45 of the Indian Evidence Act (in short “the Act”) having been filed by the petitioner-employer for getting the admitted signatures of the respondent-workman compared/verified with that of his signatures on the statements recorded in the inquiry report, came to be dismissed, petitioner-employer has approached this Court in the instant proceedings filed under Article 227 of the Constitution of India, praying therein to set-aside the aforesaid order and send the signatures of the respondent-workman to hand writing expert for comparison with that of his signatures on the statements appended during disciplinary proceedings.

2. Precisely, the facts of the case as emerge from the record are that appropriate government vide notification dated 23.9.2019, made following reference: “Whether termination of service of the petitioner by the respondent w.e.f. 12.11.2018, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief the petitioner is entitled to?”

3. Pursuant to notice issued in the aforesaid reference petition, both the parties i.e. petitioner-employer and respondent-workman filed their respective claims and counter claims. After closure of the evidence of the respondent-workman, but before the commencement of the evidence on behalf of the petitioner-employer, petitioner employer filed an application under Section 45 of the Act for comparison of the signatures as detailed herein above. Since learned Labour court below rejected the prayer on the ground that provisions contained under the Act are not stricto sensu applicable in the proceedings initiated under the Industrial Disputes Act, petitioner-employer has approached this Court in the instant proceedings.

4. Having heard learned counsel for the parties and perused material available on record vis-à-vis reasoning assigned in the order impugned in the instant proceedings, this Court finds no illegality and infirmity in the same and as such, no interference is called for. It is not in dispute that provisions contained in the Act do not apply in strict sensu to the proceedings, if any, initiated/pending before the Labour court, rather application for provision, if any, of the evidence Act would depend upon the nature of the case. In the instant case, petitioner-employer by way of filing an application under Section 45 of the Act, intends to prove the signature of the respondent-workman, which he had allegedly appended on the inquiry report and his statements recorded during disciplinary proceedings. Since respondent-workman during his cross-examination specifically denied the factum with regard to initiation, if any, of disciplinary proceedings and his signatures thereupon, petitioner-employer filed an application under Section 45 of the Act, to get his signatures compared with that of signatures allegedly put by respondent-workman on the inquiry report and the statements.

5. Though to ascertain the factual position, there is/was no harm for the court to send the signatures of the respondent-workman to hand writing expert, but since evidence of the petitioner is yet to be recorded, no illegality can be said to have been committed by the court below while rejecting the application. Necessity, if any, of sending the signatures to hand writing expert, as prayed for, by the petitioner-employer, would be seen by the court after recording of the evidence. In case, after evaluating the evidence led on record by both the parties or after having compared the signatures of person concerned on both the documents as detailed herein above, court feels it necessary to send the admitted signatures of respondent-workman to the hand writing expert, it can invoke the provisions of Section 45 of the Act to do the substantial justice.

6. Consequently, in view of the above, present petition is disposed of at this stage with liberty to petitioner to make fresh prayer for getting the signature of the respondent-workman compared, if required after completion of the evidence of both the parties. Order dated 8.7.2022, imposing costs is also quashed and set-aside. Pending applications, if any, also stand disposed of.
