

Gautam Singh Vs. Clyde Bergemann India Pvt. Ltd. & Ors.

04.04.2025

Present: Shri Pankaj Kumar Yadav, proxy counsel for plaintiff
through VC.

Ms. Kirti Majumdar, Id. Counsel for D1 and 3.

There are two applications one u/o 11 rule 14 r/w section 151 CPC filed by plaintiff and an application u/o 8 rule 1A(3) r/w section 151 CPC pending adjudication.

Arguments have already been heard.

Order on IA u/o 11 rule 14 r/w section 151 CPC.

It is submitted that defendant filed an application to put two documents on record which are as under:

1. Employees handbook given to the plaintiff at the time of employment.
2. Employee handbook given operational as on date of the termination of employment of the plaintiff.

And the same has been allowed vide order dated 23.12.2024, both the documents were taken on record.

It is further submitted that the said document no.1 i.e. employee handbook csm/2007 issue no.1 rev is admittedly an initial version issued on 01.10.2007. It is further submitted that defendant company has revised the employee handbook every year, therefore the defendant no.1 must have revised its initial version at least three times by the year 2010. It is also submitted that plaintiff got appointed in the year

2010, therefore the defendant no.1 was supposed to serve the 3rd revised version to the plaintiff. The plaintiff has never been served with the initial version of employee handbook and has no knowledge about the existence of initial version of employee handbook version 2007. The said employee handbook csm/2007 issue no.-1 rev is in the power and possession of the defendants. It is therefore, plaintiff seeks by way of this application a direction to the defendants to produce and place on record the employee handbook csm/2007 issue no.-1 rev. Hence, the present application is filed.

Reply to the application has been filed by the defendant. It is submitted that application is frivolous to the extent that the submission made by the plaintiff in para 4 of the application is blatantly false. The initial version of the handbook was served upon the plaintiff because the first version was application from October 2007 to 31.03.2010. The plaintiff joined services on 21.01.2010. The contention that between 2007 and 2010, the policy was amended thrice is also not correct. There is no rule that the employee handbook is required to be revised yearly. The employee handbook was not revised each year. Further the first version of handbook was applicable when the plaintiff joined the services of the defendant no.1. It is further submitted that the employee handbook as handed over to the plaintiff on his date of joining is in his power and possession as well and therefore, this application is infructuous, misconceived and is blatant abuse of process of court, filed only for the purpose of delaying the proceedings. Hence, it is prayed that present application be dismissed.

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Heard. Record is perused and considered.

Plaintiff has filed the present suit for declaration and consequential reinstatement and damages. Matter is at the stage of DE and same is yet to be conducted. By way of present application, the plaintiff is seeking direction to the defendant to produce the employee hand book given to the plaintiff at the time of employment and employee handbook operational as on date of the termination of the plaintiff. As per the submission of defendant in its reply, the employee hand book initial version was only applicable at the time of plaintiff's appointment which is being placed on record with the reply. As per plaintiff's case, he was terminated in the year 2022 and according to the defendant as mentioned in the reply to the present application, the employee handbook applicable at the time of termination of plaintiff for the year 2022 i.e. 11th version of the Employee Handbook. In view of above as well as facts and circumstances of the case, the present application is being disposed off as allowed with the following order:

ORDER

The application u/o 11 rule 14 r/w section 151 CPC is allowed. Defendants are directed to bring on record 11th Version of Employee Handbook.

Order on IA u/o 8 rule 1 A(3) r/w section 151 CPC.

It is submitted that defendant no.1 craves leave of this court seeking permission to reply upon following documents which are sought to be brought on record:

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1. Document no.1- Copy of the company information from the website of Ministry of Corporate Affairs of a Company called Kessel Sauber India Pvt. Ltd. as downloaded on 13.02.2025.
2. Document no.2- Copy of the Director/Signatory details from the website of Ministry of corporate Affairs of a company called Kessel Sauber India Pvt. Ltd. as downloaded on 13.02.2025.

It is further submitted that above mentioned documents are material to the case of the defendant no.1 and its submission has been necessitated upon a recent discovery by the defendant no.1 company that at the time of filing of the present suit in which the plaintiff, inter alia, claims compensation for the alleged loss of livelihood, the plaintiff had through his wife incorporated a company, Kessel Sauber India Pvt. Ltd, which is engaged in similar business as that of defendant no.1 company. In fact, a few months after filing of this present suit, the plaintiff himself completed the formalities of becoming a director of the said company and the plaintiff has deliberately misled the Hon'ble Court by concealing this relevant fact. The details Kessel Sauber India Pvt. Ltd. downloaded from website of Ministry of Corporate Affairs are attached herewith with this application. It is further submitted that documents now sought to be placed on record are highly relevant for the issues at stake in the present case. It is further submitted that grave prejudice would be caused to the defendant no.1 if these are not permitted to be produced and proved. It is therefore requested that present application may kindly be allowed.

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Reply to the application has not been filed, however, Id. Counsel for plaintiff has submitted that he will straightaway argue on the same. Id. Counsel has vehemently opposed the application and submitted that defendant has filed the present application to delay the proceedings. Id. counsel has further submitted that defendant had already filed an application in same provision earlier which was already decided, now the defendant is filing another application in the same provision. Id. Counsel has also submitted that inspite of leading defence evidence in the present matter, he is filing the applications again and again and the present application has been filed after thought. Id. Counsel has prayed that present application be dismissed with costs.

Heard. Record is perused and considered.

Matter was filed in the year 2022 and same is at the stage of DE. Defendant's evidence is yet to be recorded. No prejudice would be caused to the plaintiff if the present application is allowed. If the plaintiff has any grievance in filing of the above said documents then he has ample opportunities to cross examine the defendant during the evidence to rebut the relevancy of these documents. It is pertinent to mention here that rules and procedure are handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the

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court is required to take appropriate steps to thrash out the underlying truth in every dispute. In view of above as well as facts and circumstances of the case, the present application is being disposed off as allowed with the following order:

ORDER

The application u/o 8 rule 1 A (3) r/w Section is allowed.
Documents are filed alongwith the application are taken on record.

Put up for DE on 02.05.2025.

(Pooja Jain)
District Judge-03/NB
East/KKD Courts/Delhi
04.04.2025