
(2009) 03 DEL CK 0255

In the Delhi High Court

Case No : Writ Petition (C) No. 7830 of 2009

Ajay Kumar and Others

APPELLANT

Vs

Killburn Office Automation Ltd.

RESPONDENT

Date of Decision : 27-03-2009

Acts Referred:

Limitation Act, 1963 — Article 226

Citation : (2009) 03 DEL CK 0255

Hon'ble Judges : V.K. Shali, J

Bench : Single Bench

Advocate : Satender Verma, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Shali, J. 1. This is a writ petition filed by the Petitioners/workmen challenging the award dated 16th October, 2006 passed by the learned Presiding Officer, Industrial Tribunal-II, Karkardooma Courts, Delhi in the case titled Kilburn Office Automation Ltd. v. Its workman Ajay and four Ors.

2. By virtue of the aforesaid award, the learned Industrial Tribunal has come to a finding of fact that the services of Ajay Kumar, Balak Ram Rana, Bhupender Sharma, Hari Om and R. K. Tiwari were terminated illegally after following the due procedure prescribed for retrenchment of services of the Petitioners/workmen.

3. The present writ petition has been filed on 17th December, 2008 that is after expiry of more than two years from the date of pronouncement of award. The learned Counsel for the Petitioner/workmen is praying for grant of an adjournment in order to file an additional affidavit explain the delay in filing the writ petition. The request of the learned Counsel for the Petitioner/workman for granting an adjournment for the purpose of enabling him to file an additional affidavit with regard to the delay is declined in as much as the Petitioners/workmen ought to have shown in the writ petition itself as to why he kept

sleeping over his rights from the date of the award i.e. 16th October, 2006 when he was aware of the fact that there is a clear cut finding by the Industrial Tribunal that the services of the Petitioners/workmen have been terminated in accordance with law. The learned Counsel for the Petitioners/workmen has also cited two judgments in the case titled Smt. Sudama Devi v. The Commissioner and Ors. AIR 1983 SC 653 and State of U.P. v. Bahadur Singh and Ors. AIR 1983 SC 845. I have gone through both these judgments. Both these judgments do not help the Petitioner in any manner. It has been observed in Bahadur Singh's judgment that the Court should not come to the help of a person who is not vigilant and who is indolent. In the instant case admittedly the Petitioners/workmen having not been vigilant or rather have been grossly indolent and negligent in as much as they were aware of the fact that as early as on 16th October, 2006 that the reference has been answered against them by holding their termination legal. Yet they did not take any corrective steps. The Hon'ble Supreme Court in the case titled State of M.P. v. Bhailal Bhai AIR 1964 SC 1006 had observed as under:

The provisions of the Limitation Act do not as such apply to the granting of relief under Article 226. It appears to us however that the maximum period fixed by the Legislature as the time within which the relief by a suit in the Civil Court must be brought may ordinarily be taken to be a reasonable standard by which the delay in seeking remedy under Article 226 can be measured. This Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a Civil action for the remedy but where the delay is more than the period it will almost always be proper for the Court to hold that it is unreasonable

4. In the instant case coming back to the facts of the present case the writ has been filed admittedly after the expiry of more than two years from the date of the award when it seems the Petitioners/workmen had accepted the finding of the Industrial Tribunal that they were not the workmen whose services were terminated illegally. The present petition is only raising a stale claim which is highly belated.

5. For the foregoing reasons, the writ petition is dismissed on the ground of delay and laches.

No order as to costs.