

(1991) 11 DEL CK 0007

In the Delhi High Court

Case No : Civil Miscellaneous Appeal No"s. 91 and 466 of 1976 and Civil Writ Appeal No"s. 91 and 280 of 1991

Delhi Transport Corporation

APPELLANT

Vs

Delhi Administration and Others

RESPONDENT

Date of Decision : 19-11-1991

Acts Referred:

Industrial Disputes Act, 1947 — Section 17B

Citation : (1992) 46 DLT 109

Hon'ble Judges : Mahinder Narain, J

Bench : Single Bench

Advocate : S.N. Bhandari, Mamta Mehta and O.K. Sharma, for the Appellant;

Judgement

Mahinder Narain, J.

(1) Let this application u/s 17-B of the Industrial Disputes Act, 1947, be numbered.

(2) Section 17-B of the Industrial Disputes Act 1947 reads as u/s : 17-B. Payment of full wages to workman pending proceedings in higher Courts. Where in any case a Labour Court, Tribunal or National Tribunal by its award directs reinstatement of any workman and the employer prefers any proceedings against such award in a High Court or the Supreme Court, the employer shall be liable to pay such workman, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the workman had not been employed in any establishment during such period and an affidavit by such workman had been filed to that effect in such Court: Provided that where it is proved to the satisfaction of the High Court or the Supreme Court that such workman had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this Section for such period or part, as the case may be.

(3) This provision has been added to the Industrial Disputes Act by Act No. 46 of 1982, which came into force on 21.8.1984. A perusal of the Section shows that upon a workman filing an affidavit that he is not employed, that award was given by the Labour Court, Tribunal or National Tribunal, reinstating him in service, full wages last drawn by him, are to be given to the workman upon it being proved to the satisfaction of the High Court or the Supreme Court that the workman has been unemployed.

(4) If it is proved to the satisfaction of the High Court or the Supreme Court that the workman who has filed an affidavit u/s 17-B of the Industrial Disputes Act, 1947, has been employed, and has been receiving adequate remuneration during any period, the Court can direct that no wages shall be paid

(5) Upon the affidavit being filed by the workman u/s 17-B of the Industrial Disputes Act, 1947, on 21.3.1991, notice was given to the Delhi Transport Corporation. Reply to the affidavit has been filed only on 14.11.1991.

(6) I have perused the affidavit, and the reply filed to it. The reply nowhere indicates where the workman has been employed since the date of the award, directing reinstatement.

(7) Inasmuch as no particulars are mentioned in the reply regarding the place of employment, the name of the employer etc. it is not proved that the workman has been employed since the date of the award.

(8) In this view of the matter, full wages last drawn by the workman have to be paid to him in view of Section 17-B of the Industrial Disputes Act, 1947.

(9) An amount of Rs. 2,09,000.00 has been deposited in Court by the Delhi Transport Corporation. The workman may move appropriately for its withdrawal,

(10) The non-applicant should deposit the amount which is payable in terms of Section 17-B of the Industrial Disputes Act to the workman with the Registrar of this Court, within one month from today, and thereafter the amount equal to the wages last drawn by the workman be deposited on or before 10th of each month.

(11) C.M. stands disposed of. C.M. 460/91

(12) The award in question being one in which reinstatement has been ordered. I am not inclined to stay the operation of the impugned award.

(13) C.M. stands disposed of. C.M. 5976/91

(14) This application is for cross-examination of the deponent of the affidavit filed u/s 17-B of the Industrial Disputes Act. The affidavit has to be countered by an affidavit, indicating the place or places where the deponent has been working since the date of the award, and as such it does not call for cross-examination of the deponent of the affidavit.

(15) C.M. stands disposed of accordingly.