
(2011) 05 DEL CK 0062
In the Delhi High Court
Case No : Writ Petition (C) 2163 of 2011

Deva Nand Shah

APPELLANT

Vs

A.V.I. Plast

RESPONDENT

Date of Decision : 24-05-2011

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2011) 05 DEL CK 0062

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : S.K. Singh, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The writ petition impugns the award dated 17th December, 2007 of the Industrial Adjudicator on the following reference:

Whether the services of Sh. Deva Nand Shah S/o Sh. Damodar Shah have been terminated illegally and/or unjustifiably by the management, and if so, to what sum of money as monetary relief along with consequential benefits in terms of existing laws/Govt. Notifications and to what other relief is he entitled and what directions are necessary in this respect?

and though holding the termination of services of the Petitioner workman by the Respondent employer to be illegal for the reason of being in violation of Section 25F of the Industrial Disputes (I.D.) Act, 1947 but granting relief only of compensation of Rs. 40,000/- to the Petitioner workman.

2. The grievance of the Petitioner workman in the writ petition is that upon the termination having been found to be illegal, the relief of reinstatement with full back wages ought to have been granted. The counsel for the Petitioner workman has argued that even if compensation were to be awarded, it should have been proportionate to the long time of six years for which the reference remained pending and the long time of about seven years from the date of the termination

till the date of the award.

3. It is not as if the Industrial Adjudicator has not considered all the aforesaid aspects or has arbitrarily held the Petitioner workman to be not entitled to the relief of reinstatement or has arbitrarily assessed the compensation at Rs. 40,000/-. The Industrial Adjudicator has based his relief on various factors including that the Petitioner workman had rendered only about ten months of service with the Respondent employer; the brief period of service rendered in comparison to the time after which the award was made published; the reinstatement being not appropriate for the said reason. Similarly, the amount of compensation was fixed taking into account the services rendered of ten months and last drawn wages of Rs. 2,500/- per month.

4. I have enquired from the counsel for the Petitioner workman as to what according to the Petitioner workman should have been the measure of damages. All that the counsel for the Petitioner workman is able to contend is that the compensation should have been more and is highly insufficient. Even in the writ petition there are no pleadings in this regard.

5. I am of the opinion that the discretion exercised by the Industrial Adjudicator in this regard as to the relief, cannot be interfered with in exercise of powers of judicial review unless found to be perverse or unreasonable considering the facts or being arbitrary. None of the said criteria is found in the present case.

6. There is no merit in the writ petition; the same is dismissed. No order as to costs.