

(1999) 11 DEL CK 0085

In the Delhi High Court

Case No : Civil Writ petition No. 1313 of 1998

Hambir Singh

APPELLANT

Vs

The Presiding Officer Industrial Tribunal No.II and Another

RESPONDENT

Date of Decision : 26-11-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 1 AD 696 : (1999) 82 DLT 903

Hon'ble Judges : A.K. Sikri, J

Bench : Single Bench

Advocate : Mr. J.M. Bari, for the Appellant; Mr. Vinay Bhasin, for the Respondent

Judgement

A.K. Sikri, J.—Petitioner was employed by respondent No. 2 w.e.f. 1st October, 1986. Petitioner was served with chargesheet dated 10th February, 1989. While this enquiry was in progress, on 12th May, 1989 petitioner submitted his resignation from service which was accepted on the same date and his dues was settled and paid. Thereafter, he raised industrial dispute alleging that the resignation letter submitted by him was not voluntary and he was threatened and forced to write his resignation letter. The industrial dispute was referred to the Industrial Tribunal for adjudication with the following terms of reference :-

"Whether the workman Shri Hambir Singh voluntarily resigned and settled his full and final account or his services have been terminated illegally and/or unjustifiably by the management and if so, to what relief is he entitled and what directions are necessary in this respect?"

2. Before the Industrial Tribunal the petitioner examined himself in support of his case. On the other hand, respondent-management examined three witnesses including S/Sh. R.K. Bakshi and S.L. Malik against whom allegation of threat etc. were leveled by the petitioner. On the basis of material on record and after appreciating the evidence, Industrial Tribunal returned the finding that resignation submitted by the petitioner was voluntary, he was not coerced or

threatened to write such resignation and thus his services were not terminated by the management but he resigned. The relevant discussion to this effect in the impugned award reads as under :-

"From the pleadings of the parties it is quite clear that there is no dispute that the workman concerned did resign and his services were not terminated by the management. The question that has to be decided is whether the resignation submitted by the workman was voluntary or the same was obtained by the management under force and threat of life as claimed by him. Except for the statement of the workman himself there is no other evidence adduced by him in support of his allegations that S/Shri R.K. Bakshi and S.L. Malik had either slapped him or threatened him with life after taking out a revolver. The management examined both Shri R.K. Bakshi and Shri S.L. Malik and both of them denied the allegations leveled by the workman against them. In their cross examination nothing could be elicited from them which could discredit their statements made by them in their respective affidavits which were filed by them as their examination in chief. The management had also examined Shri S.K. Aggarwal who was also alleged to be present in the room of Shri S.L. Malik at the time when the workman claims to have been forced to sign the resignation letter. Mr. Aggarwal also denied the allegations of the workman that he was slapped or threatened by Shri S.L. Malik and Shri R.K. Bakshi. In his cross examination also the workman could not elicit anything from him which could discredit his testimony.

The workman has not given any single reason as to why management's officials named by him would threaten him with his life. It is not even his case that S/Shri S.L. Malik, R.K. Bakshi had any personal grudge against him (the workman).

Although the workman had also pleaded that he was an active union member and for that he had been charged but no evidence to support that plea has been given by him. He has not even examined any office bearer of his union.

I am, therefore of the view that the workman has not been able to establish that his resignation had been obtained by the management under threat as claimed by him.

Thus, the workman having himself resigned from service there was no question of the management terminating his service illegally and unjustifiably as claimed by him."

3. Learned counsel for the petitioner contended that while arriving at the aforesaid finding the learned Industrial Tribunal did not take into consideration various documents submitted by him before the Tribunal. In this respect he referred to the police report allegedly lodged on same day petitioner had given his resignation letter i.e. 12th May, 1989 and the objection dated 16th May, 1989 submitted to the management. A perusal of the award shows that reference was made to these documents while noticing the case of the management before the Tribunal and according to the management, no such report was lodged and police

never approached the management for any investigation whatsoever. It is in this context that the Industrial Tribunal has observed that apart from his own oral testimony, no other evidence is produced by the petitioner in support of his case. When the factum of police report allegedly lodged by the petitioner was disputed by the management before it, it was for the petitioner to produce independent evidence to support his case on this aspect. As far as letter dated 16th May, 1989 is concerned, it was written four days after the resignation and acceptance of final dues and can be considered as after thought. In view of this, I am not inclined to agree to the contention of the petitioner that the document produced by him are not considered by the Industrial Tribunal.

4. Since the Industrial Tribunal has given the award on appreciation of material produced before it and has arrived at the finding based on facts, this Court is not to interfere with such finding of fact in exercise of its jurisdiction under Article 226 of Constitution of India. Accordingly, the writ petition is dismissed.