(2006) 07 DEL CK 0040

In the Delhi High Court

Case No : Writ Petition (Civil) No. 1371 of 2006

Jagminder Singh APPELLANT

Vs

Executive Engineer, F.C.D. and Another RESPONDENT

Date of Decision : 25-07-2006

Acts Referred:
Income Tax Act, 1961 — Section 192, 89

Citation : (2006) 133 DLT 256

Hon'ble Judges : Manju Goel, J

Bench : Single Bench

Advocate : Varun Prasad, for the Appellant; Sewa Ram, for the Respondent

Judgement

Manju Goel, J.—The petitioner was a workman with respondent No. 1 and had been terminated with effect from 9.8.1983. He raised an industrial dispute which was decided by award dated 6.5.2004. The award directed the management to reinstate the petitioner with 25% back wages. The petitioner says that the award dated 6.5.2004 was published on 14.6.2004. The petitioner further says that the petitioner has been paid only 25% back wages and was taken in service only on 9.2.2005. He further submits that he is entitled to full wages from the date of the award till he was actually allowed to join.

2. On behalf of the respondent it is stated that the respondent is required to implement the award within two months of its publication and, Therefore, the respondent was within its right to take the petitioner on duty from 14.8.2004. The petitioner was actually taken on duty on 9.2.2005. It is explained that in the meantime the respondents have been seeking the opinion of the different branches of the Government. This, however, will not dis-entitle the petitioner to get the benefit of the award dated 6.5.2004. The respondent Therefore, cannot withheld the wages of the petitioner from 14.8.2004 till he actually joined, i.e., 9.2.2005. The respondent Therefore, shall make payment of the dues to the petitioner in this regard within two months hereof.

3. The petitioner has also claimed a sum of Rs. 12,000/- which was deducted from his back wages. The respondents have to make these deductions u/s 192 of the Income Tax Act, 1961. It is explained that the income could not be spread over the years for which the back wages related because the respondents could have no information about the income which the petitioner may have earned during these years and what could be the actual amount of Income Tax payable by the petitioner. The petitioner has referred to a judgment of the Supreme Court in the case of Ras Behari Vs. Haryana Agricultural University through Vice-chancellor, Hissar and Others, in which in a similar situation the Supreme Court directed that the appellant shall be entitled to relief u/s 89 as the compensation therein awarded included salary which was arrears for 15 years as also the compensation in lieu of reinstatement. The Supreme Court directed that the appellant, if necessary, shall make an application and submit the same to the competent authorities and the Commissioner shall assist the appellant in obtaining the relief. The petitioner accordingly may apply to the appropriate quarters for getting the relief u/s 89 of the Income Tax Act.

4. The petition stand disposed of with the above directions.

