
(2011) 12 DEL CK 0034
In the Delhi High Court
Case No : Writ Petition (C) 3004 of 1994

J.N. Enterprises

APPELLANT

Vs

Labour Court and Another

RESPONDENT

Date of Decision : 21-12-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 9 Rule 13

Citation : (2011) 12 DEL CK 0034

Hon'ble Judges : P.K. Bhasin, J

Bench : Single Bench

Advocate : Divya Jain, for Mr. Anil Grover, for the Appellant;

Judgement

P.K. Bhasin, J.—This writ petition was filed by the petitioner-management challenging the order dated 10th July, 1992 passed by the Labour Court dismissing the petitioner's application under Order 9 Rule 13 of the CPC for setting aside the ex-parte award dated 7th February, 1992 whereby the Labour Court had ordered reinstatement of respondent no. 1-workman in its service after holding the termination of his services by the petitioner-management to be illegal.

2. The Labour Court had dismissed the application under Order 9 Rule 13 CPC only on the ground that by the time that application came to be filed it had already become functus officio because of the award rendered by it having been published and becoming enforceable. For this conclusion the Labour Court had placed reliance on a judgment of this Court in Jagdamba Auto Industries Vs. Kamal Yadav, wherein it had been held that the Labour Court becomes functus officio only after 30 days of the period from the date of publication of the award.

3. Learned counsel for the petitioner has cited one decision of the Hon'ble Supreme Court wherein it has been held that the Labour Court or the Industrial Tribunal does not become functus officio after the publication of the award rendered by it and they have the jurisdiction to set aside an ex-parte award by

entertaining an application under Order IX Rule 13 CPC. This judgment is reported as Radhakrishna Mani Tripathi Vs. L.H. Patel and Another, in which judgment this conclusion had been arrived by relying upon an earlier judgment in the case of Anil Sood Vs. Presiding Officer, Labour Court II, .

4. In view of these pronouncements of the Apex Court, the impugned order of the Labour Court in the present case has to be set aside and the matter deserved to be remanded back to the Labour Court with the direction to deal with the petitioner's application under Order IX Rule 13 CPC on merits.

5. Accordingly, the order dated 10th July, 1992 of the Labour Court is set aside. The matter is remanded back to the Labour Court for fresh disposal of the petitioner's application under Order 9 Rule 13 CPC after examining the reasons given by the petitioner-management for its not appearance in the reference proceedings because of which ex-parte award came to be passed.

6. The matter shall be taken up by the Labour Court on 31st January, 2012 at 2 p.m. and thereafter, it shall proceed further after giving notice to the workman concerned as well as to the Union which was representing his cause.