

(1996) 01 DEL CK 0068

In the Delhi High Court

Case No : Writ Petition (C) No. 546 of 1994

Management of Delhi Development Authority

APPELLANT

Vs

Shri Radhey Shyam Tyagi and Another

RESPONDENT

Date of Decision : 08-01-1996

Acts Referred:

Citation : (1996) 2 LLJ 139

Hon'ble Judges : P.K. Bahri, J; Cyriac Joseph, J

Bench : Division Bench

Advocate : Apurab Lal, for the Appellant; Ashok Agarwal, for the Respondent

Final Decision : Dismissed

Judgement

1. The petitioner is challenging the order dated September 30, 1993, of the Industrial Tribunal by which the application seeking setting aside the exparte award was dismissed. The exparte award was made on November 18, 1988 and it was published on January 19, 1989. The application for setting aside the ex parte award was moved on June 1, 1989. We have perused the application and find that no reason has been given whatsoever as to why the application could not be moved at least within 30 days of the publication of the award in Delhi Gazette on January 19, 1989. It is true that if there is an ex parte award, in view of the ratio of the judgment of the Supreme Court in the case of Grindlays Bank Ltd. Vs. Central Government Industrial Tribunal and Others, the Industrial Tribunal has the jurisdiction to entertain the application for setting aside the ex parte award and in this very judgment it has been held that Industrial Tribunal becomes functus officio if the application is not moved within 30 days of the publication of the award in the Gazette. In the present case we find that the application was belatedly moved and no reason has been given in the application as to how and why the award which had been published in the Gazette on January 19, 1989 had not come to the knowledge of the petitioner. The counsel has mentioned that in the application.. that some notice has been received after making of the award as well which was not put up before the proper authority and some notice which

was received before passing of the award was also misplaced by the head clerk concerned. We are not going into the merits of the pleas taken in the application. We find that no reason has been given in the application as to why it could not be filed within 30 days of publication of the award. Hence we find no merit in this petition which is dismissed. We leave the parties to bear their own costs. Interim order stands vacated.