
(2003) 09 DEL CK 0085
In the Delhi High Court
Case No : CW 2407 of 2002

MCD

APPELLANT

Vs

Lekh Ram and Another

RESPONDENT

Date of Decision : 25-09-2003

Acts Referred:

Industrial Disputes Act, 1947 — Section 25(F)

Citation : (2003) 7 AD 480 : (2003) 107 DLT 661 : (2004) 1 LLJ 533

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Advocate : Neelam Tiwari, for the Appellant; Anuj Jain, for the Respondent

Final Decision : Dismissed

Judgement

Mukul Mudgal, J.—This writ petition challenges the award dated 11th July, 2001 granting reinstatement to the respondent with only 20% back wages.

2. The Labour Court in the impugned award had found as under:

(a) The MW1 (MCD's witness), Deputy Education Officer admitted that the respondent worked from 26th April, 1990 to 28th January, 1991.

(b) The plea of MCD that the workmen himself did not report for duty and his services were never terminated was disproved by the pleading that the services of the workman were disengaged as the work for which he had been engaged had been completed.

(c) Section 25F was violated as its provisions were admittedly not resorted to or complied with.

3. On 5th August, 2003, this Court passed the following order :

"Learned counsel for the petitioner has challenged the award on the ground that the award itself displays an error apparent on the face of the record as to the period of working of the respondent No.1 from 26th June, 1990 to 23rd January,

1991. It is submitted that the respondent No.1 accordingly not having worked for 240 days, he was not entitled to the benefit of Section 25(F) of the Industrial Disputes Act, 1947 and, Therefore, the impugned Award dated 11th July, 2001 granting him reinstatement cannot be sustained.

Learned counsel for respondent No.1 however has stated in his counter that the date of 26th June, 1990 is incorrect as from the cross-examination of M.W.1, Ms. Tejo Devi Dahiya, a witness on behalf of the petitioner, it is evident that she admitted that the claimant/respondent No.1 was appointed on 26th April, 1990 and working from 26th April, 1990 to 23rd January, 1991 which period is admittedly more than 240 days. In the rejoinder, there is a bare denial of this averment.

Learned counsel for the petitioner seeks and is granted four weeks time to verify the date of the appointment of respondent No.1

List on 3rd September, 2003."

4. After the order dated 5th August, 2003 nothing has been produced by the petitioner in support of its stand that the respondent No.1 has not worked for 240 days. No affidavit has been filed by the petitioner in support of its stand. The matter was adjourned for this purpose on 3rd and 12th September, 2003 at the request of the learned counsel for the petitioner. In fact the respondent had produced the document Ex. MW1/1 which showed the date of appointment of respondent as 26.4.90. Thus this shows that the respondent had completed 240 days. If that be so the reinstatement cannot be resisted as there is no compliance of Section 25F as found by the Labour Court. Accordingly, there is no merit in the writ petition. It is dismissed accordingly.

5. The amount deposited by the petitioner in this Court is directed to be released to the respondent No.1 on or before 31st October, 2003.