
(1988) 09 DEL CK 0001

In the Delhi High Court

Case No : Civil Writ Petition No. 863 of 1986

National Seeds Corporation Ltd.

APPELLANT

Vs

Mangal Singh and Others

RESPONDENT

Date of Decision : 14-09-1988

Acts Referred:

Citation : (1988) 36 DLT 351

Hon'ble Judges : Sunanda Bhandare, J

Bench : Single Bench

Advocate : K.C. Sharma and N.C. Pandey, for the Appellant;

Judgement

Sunanda Bhandare, J.

(1) This writ petition under Article 226 of the Constitution of India is directed against the award of the Labour Court dated 10th October 1985 in I.D. No, 872 of 1983.

(2) Vide notification dated 23rd November 1983 an industrial dispute between the management of National Seeds Corporation Limited and its workman Shri Mangal Singh was referred to the Labour Court for adjudication. The terms of reference read as follows.

"WHETHER the services of Shri Mangal Singh have been terminated illegally and/or unjustifiably and if so, to what relief is he entitled ?"

After the receipt of the reference, notices were issued to the parties. The workman filed his statement of claim, however, though time "was given to the management to file the written statement, the management failed to file the written statement on the given date and, Therefore, on that very day, an order was made by the Labour Court proceeding ex-parte against the management.

(3) It is the case of the petitioner-management that one Shri JD. Kashyap, Assistant in the petitioner Corporation was authorised to attend to this case and though he appeared Along with the authority letter before the Labour Court on

the first date, he could not appear to file the written statement on 15th May, 1985 because he suddenly took ill. Thereafter, it is only when the award was published in the Gazette that it was realised that the case had been proceeded ex-parte against the management and had culminated in the impugned award.

(4) Learned counsel for the petitioner submitted that since the petitioner is a public sector undertaking once a particular case was assigned to a person no one else would be aware of that case. Shri J.D. Kashyap fell ill for a long time, no one in the management was aware of what had happened to the case. Learned counsel submitted that even otherwise the Labour Court ought to have considered all evidence on record before passing the impugned award. The Labour Court had not even considered the order of appointment or the order of termination before the impugned award was made.

(5) It was contended by the learned counsel for the respondent that great hardship will be caused to the workman if now the case is sent back to the Labour Court for decision on merits.

(6) It is the case of the petitioner that respondent No. 1 was appointed only as an Apprentice Mechanic for a fixed period of one year and later on that period was extended by another one year and since that period expired on 30.4.1982 the respondent workman ceased to be in service by efflux of time and there is no question of termination. Learned counsel for the respondent does not agree with this contention and it is the case of the respondent that though initial appointment was for only one year since the workman continued after one year he became a regular employee and his services could not be terminated.

(7) Having considered the rival submissions of the learned counsel for the parties I find that the order proceeding ex-parte against the management was made by the Labour Court on the first date on which written-statement was to be filed. Considering that the petitioner is a public sector undertaking it may have been that no other person attended to this case because it was assigned to Shri Kashyap. It also appears that neither the order of appointment dated 5th June, 1980 nor the alleged order of termination dated 20th April, 1982 was considered by the Labour Court.

(8) In my view, in the facts and circumstances of the present case interest of justice requires that the dispute is decided on merits after hearing both the parties. The Petitioner has shown sufficient cause for nonappearance before the Labour Court and once the Award was published the only remedy open to the petitioner was by moving this court for appropriate relief because the Labour Court could no longer deal with the case. It is true that since long, time has elapsed the workman will face some amount of hardship because of the remand order. However, he can be compensated by payment of costs.

(9) In the result, the writ petition is allowed and the impugned award dated 16th October, 1985 is set aside. The Labour Court is directed to decide the reference within six months from today after giving adequate opportunity to both the sides.

The petitioner will pay costs quantified at Rs. 1, 500.00 to respondent No. 1. The parties will appear before the concerned Labour Court on 10th October, 1988 for further proceedings. C.M. 3247/87.

(10) Since the writ petition stands disposed of and the reference is ordered to be decided on merits afresh, the amount deposited by the petitioner in this Court is allowed to be withdrawn by the petitioner on an undertaking that in case the workman again succeeds before the Labour Court, the amount so determined by the Labour Court will be paid to him.