
(2003) 08 DEL CK 0052
In the Delhi High Court
Case No : CWP No. 441 of 2003

Neeraj Monga

APPELLANT

Vs

O.P. Khanna and Others

RESPONDENT

Date of Decision : 13-08-2003

Acts Referred:

Industrial Disputes Act, 1947 — Section 29, 32, 33

Citation : (2004) 1 AD 245 : (2003) 106 DLT 138 : (2003) 71 DRJ 676

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Advocate : D. Hasija, for the Appellant; Ashok Aggarwal and Krishan Kumar, for the Respondent

Judgement

Mukul Mudgal, J.

1.Rule

2.With the consent of the counsel for the parties the matter is taken up for final hearing.

3.This writ petition challenges the order dated 23rd May, 2002 wherein the deposit of Rs.31,01,450/- has been sought from the petitioner by the ALO of Implementation Cell of Labour Department, NCT of Delhi who according to the respondents was the Managing Director of the company. The impugned order is passed pursuant to the award dated 11th December, 1997 passed in I.D. No. 246/96 at the behest of respondent No. 5 union.

4.The averments made by the petitioner shows that according to him he had resigned from the directorship of the company on 23rd August, 2002 and the requisite notice of change in Form 32 was filed in the office of the Registrar of Companies on 4th September, 2002. It is also pleaded that in fact the recovery certificate dated 2nd September, 1998 is against the company only but is being sought to be implemented against him personally.

5.The learned counsel for the respondent however, states that the order impugned in the present writ petition should be construed only to be an order leading to the initiation of the proceedings u/s 29 of the Act for violation of order passed u/s 33(c)(1) of the Act read with Section 32 of the Industrial Disputes Act.

6.In view of the stand taken by the counsel for respondent No.5, it is clarified that the order dated 23rd May, 2002 be construed to mean that it should be a show cause for initiation of proceedings u/s 29 read with Section 32 of the Industrial Disputes Act. The respondent's counsel states that in so far as the said order seeks to recover the amount from the petitioner personally he does not wish to support it. In view of the above stand of the respondent the grievance of the petitioner that the award is sought against the Director in person does not survive.

7.In view of the aforesaid clarification, the grievance in the writ petition about the implementation of and recovery of the award against the petitioner does not survive.

8.However, the authority shall proceed expeditiously for recovery in accordance with law including initiation of appropriate penal proceedings u/s 29 read with Section 32 of the Act by treating the order dated 23rd May, 2002 as a show cause notice. The response to the show cause notice dated 23rd May, 2002 now treated to be under Sections 29 and 32 of the I.D. Act be filed by the petitioner on or before 30th September, 2003.

9.The writ petition stands disposed of accordingly.