

(2007) 12 DEL CK 0038
In the Delhi High Court
Case No : Writ Petition No. 8471 of 2007

Prem	Vs	APPELLANT
Chirag Boutique		RESPONDENT

Date of Decision : 04-12-2007

Acts Referred:

Citation : (2008) 2 LLJ 29

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : P.S. Yadav, for the Appellant; Zakir Hussain, for the Respondent

Final Decision : Dismissed

Judgement

Hima Kohli, J.—Rule.

2. With the consent of the parties, the matter has been heard and disposed of finally.

3. The petitioner has assailed a no relief award dated October 27, 2006, passed by the Labour Court against the petitioner stating inter alia that he failed to establish the relationship of an employee and an employer between the petitioner workman and the respondent management. The petitioner has also assailed the order dated July 9, 2007, passed on the review application filed by the petitioner, which was rejected by the Labour Court.

4. The only ground for passing a no relief award by the Labour Court is that the petitioner workman failed to establish a relationship of an employee and employer between the petitioner workman and the respondent management. Counsel for the petitioner states that because the respondent management was proceeded ex-parte, he had no opportunity to cross-examine the said respondent to establish the relationship of an employee and employer between the petitioner workman and the respondent management. He further states that the Court below failed to examine the document placed by him on record and marked at

Exhibit WW 1/1, which as per his submissions, is sufficient to establish the relationship of employee and employer between him and the management.

5. A perusal of the impugned award shows that the aforesaid document was duly taken into consideration by the Labour Court while passing the impugned award. The aforesaid document has been reproduced in para 9 of the award. It is rightly observed by the Court below that a perusal of the said document does not show that the petitioner workman was employed by the respondent management or that there existed a relationship of an employer and employee between them. Apart from the aforesaid document, there is no other document produced or sought to be produced by the petitioner before the Court below. In these circumstances, the contention raised on behalf of the petitioner that the Court below erred in arriving at a conclusion that there did not exist a relationship of employer and employee between the respondent management and the petitioner workman is not acceptable. There is no justification to overturn the findings of the facts arrived at by the Labour Court. This Court also does not find any error in the impugned order dated July 9, 2007, whereunder the review application filed by the petitioner workman was dismissed on the ground that having passed an award on merits, the Labour Court could not reopen the same for taking into consideration the additional evidence. The petitioner had ample opportunity to produce all the relevant material on record as also the witnesses in support of his case.

6. Having failed to do so at the proper time, the Labour Court rightly observed that it was too late in the day for the petitioner to seek review of the impugned award on the ground that he was entitled to place on record certain additional evidence in support of his case. In any case this cannot be the scope of review as the petitioner had failed to point out any error apparent on the face of the record or any such perversity on the basis of which the review application filed by the petitioner could have been entertained by the Labour Court.

7. For the aforesaid reasons, this Court does not deem it appropriate to interfere with the impugned award and the order dated July 9, 2007. The writ petition is Therefore dismissed in limine.