

(2012) 07 DEL CK 0479

In the Delhi High Court

Case No : Writ Petition (C) No. 819 of 1998

Puran Chand

APPELLANT

Vs

The Management of India International Centre

RESPONDENT

Date of Decision : 11-07-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 07 DEL CK 0479

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The petition impugns the award dated 20th November, 1996 of the Industrial Adjudicator on the following reference:-

Whether the dismissal of Sh. Pooran Chand from service is illegal and/or unjustified and if so to what relief is he entitled and what directions are necessary in this respect.

and holding the punishment awarded by the respondent employer to be neither harsh nor disproportionate to the seriousness of the misconduct committed by the petitioner workman and holding the petitioner workman to be not entitled to any relief. Notice of this petition was issued. After service of the respondent employer, Rule was issued on 20th December, 1999. The petitioner workman died during the pendency of the petition and his legal heirs were substituted vide order dated 22nd March, 2010. It is also worth mentioning that attempts made from time to time for amicable settlement failed. None has been appearing for either of the parties for the last several dates on 23rd August, 2011, 15th December, 2011, 2nd January, 2012, 20th March, 2012 and 2nd July, 2012. Today also none has appeared in spite of the matter having been kept pending for sufficiently long time. It is not deemed expedient to await the parties/counsels any further. Though in the position aforesaid, the petition is liable to be

dismissed for non-prosecution but Rule having been issued, the records have been gone through.

2. The Industrial Adjudicator in the order dated 31st January, 1986 and in the award has found/observed/held:-

a. that the petitioner workman was in service of the respondent employer since 1962;

b. that his services were terminated w.e.f. 26th May, 1980 after holding domestic inquiry;

c. that the petitioner workman had not been able to substantiate his pleas that he was not given sufficient opportunity to cross examine the witnesses during the inquiry or that the inquiry was otherwise bad;

d. that the petitioner workman was given sufficient opportunity to reply to the charge sheet, he was present when the witnesses were examined; he was given sufficient and adequate opportunity to cross examine the witnesses but had not availed of the same;

e. that the petitioner workman had also been unable to show that he was in any manner prejudiced from non-cross examination of the said witnesses;

f. that the inquiry proceedings were recorded in the language known to the petitioner workman and the petitioner workman had signed all the proceedings sheets;

g. that no case of the respondent employer having victimized the petitioner workman or having indulged in any unfair labour practice was also made out;

h. that the misconduct of which the petitioner workman had been found guilty, of gheraoing the Manager of the respondent employer and threatening him till he revoked the suspension of another employee and of inciting the other workers and leading them and of using violent, abusive and derogatory language was grave enough to justify the punishment of dismissal.

Considering (i) that the dismissal of the petitioner workman was nearly 32 years ago; (ii) the petitioner workman is now no more; and, (iii) the findings of the Industrial Adjudicator which are challenged in this writ petition are factual in nature and no case of the same being perverse is made out, this is even otherwise not a case calling for interference in exercise of powers under Article 226 of the Constitution. The petition is therefore dismissed. No order as to costs.