

(2011) 01 DEL CK 0465

In the Delhi High Court

Case No : Writ Petition (C) No. 96 of 2011

Rajinder Kumar Arora

APPELLANT

Vs

Air Liquide India Holding Pvt. Ltd. and Others

RESPONDENT

Date of Decision : 10-01-2011

Acts Referred:

Industrial Disputes Act, 1947 — Section 2

Citation : (2011) 01 DEL CK 0465

Hon'ble Judges : Rekha Sharma, J

Bench : Single Bench

Advocate : M.A. Khan, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Rekha Sharma, J.—The Petitioner has challenged the award of the Labour Court No. IX, Karkardooma Courts, Delhi dated August 28, 2010. Two issues were framed by the Labour Court, namely, "whether the claimant was not a workman within the meaning of Section 2(5) of Industrial Disputes Act, 1947 as claimed by the management?" and, "whether the services of the claimant were terminated by the management on 11.01.2005 illegal and unjustifiably? And if so, to what effect." The finding on both the issues has gone in favour of the Management and against the Petitioner.

2. A perusal of the impugned award goes to show that the Petitioner was employed by the Respondents as Deputy Manager (Administration) in November, 1995. The Petitioner does not dispute that he was so employed. His contention is that his appointment as Deputy Manager (Administration) was only in name and that for all practical purposes, he was a workman u/s 2(5) of the Industrial Disputes Act, 1947. The Labour Court afforded opportunity to the Petitioner to produce evidence in support of his said contention. In response the only evidence that he led was in the form of his own affidavit which was taken as his examination-in-chief. He was subjected to cross-examination and one of the dates fixed for his cross-examination was July 07, 2010. He failed to appear on

the said date. Of course, a request was made on his behalf for adjournment, but the same was declined by the Labour Court on the ground that issues were framed in the case on October 31, 2005 and from January 31, 2006 till July 07, 2010, several opportunities were given to him to conclude his evidence but he failed to do so. Accordingly, his evidence was closed and the case was adjourned to August 19, 2010 for evidence of the Management. The Management also failed to produce any evidence on the date fixed. Consequently, the impugned award dated August 28, 2010 was passed.

3. It is stated that the Petitioner could not appear on July 07, 2010 as he had to leave India due to some unavoidable circumstances. However, what were those circumstances which compelled him to leave India were not spelt out. In the absence of virtually no explanation from the Petitioner justifying his leaving the country while he was under cross-examination and not appearing on July 07, 2010, I am of the view that the Labour Court having regard to the fact that from January 31, 2006 till July 07, 2010, several opportunities were granted to the Petitioner to conclude his evidence, rightly closed his evidence. Since the cross-examination of the Petitioner could not be concluded, the Labour Court also held that his affidavit could not be read in evidence and consequently, further held that there was no evidence on record to support his case that he was a workman u/s 2(5) of the Industrial Disputes Act, 1947.

4. I find no infirmity in the impugned order. There is no merit in the writ-petition. The same is dismissed.