
(1996) 02 DEL CK 0096

In the Delhi High Court

Case No : Civil Writ Petition No. 2100 of 1995

Ram Bilas

APPELLANT

Vs

Presiding Officer, Labour Court No. II

RESPONDENT

Date of Decision : 05-02-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 41 DRJ 239

Hon'ble Judges : Y.K. Sabharwal, J;D.K. Jain, J

Bench : Division Bench

Advocate : R.K. Gupta, Vipin Sehgal and Pradeep Arya, for the Appellant;

Judgement

(1) Rule D.B.

(2) The Labour Court by ex parte award dated 7 November 1992 directed reinstatement of the workman/respondent No. 2 with continuity of service and full back wages. According to the petitioner he learnt about the award on receipt of copy of the ex parte award on 2 February 1993 and on the next date, i.e., 3 February 1993 the petitioner through Suresh Kumar moved application for setting aside the award dated 7 November 1992. That application was dismissed by the Presiding Officer of the Labour Court by the impugned order dated 20 October 1994. The ex parte award and the impugned order dated 20 October 1994 are under challenge before this Court. The main ground for dismissing the application for setting aside the ex parte order is that the application is filed by Suresh Kumar, who is son of the employer Ram Bilas. The fact that Suresh Kumar is son of Ram Bilas is also mentioned in the impugned order. The order also notices that Ram Bilas has filed an affidavit that the establishment has been closed due to financial difficulties as well as separation of his sons from him. The dismissal of application for setting aside the ex parte order on the ground that Suresh Kumar, son of the employer has filed the same and not Ram Bilas, the employer himself, is a highly technical approach. We may notice that according to the petitioner he was not served with the summons issued by the Court. .

(3) Having heard learned counsel for the parties and keeping in view the facts and circumstances of the case we make the Rule absolute and set aside the order dated 20 October 1994 and also the ex parte award dated 7 November 1992 subject, however, to payment of costs of Rs. 2,500.00 in favor of respondent No. 2. The costs shall be paid by the petitioner before the Labour Court on the next date of hearing. The parties are directed to appear before the Labour Court on 18 March 1996. The amount deposited by the petitioner in this Court pursuant to the order dated 25 May 1995 be paid back to him.

(4) No costs.