

(2011) 08 DEL CK 0033

In the Delhi High Court

Case No : Writ Petition (C) 1476 of 2008, CM No. 10897 of 2010 and CM No. 10898 of 2010

Ranutrol Industries Ltd.

APPELLANT

Vs

Bahadur Singh and Another

RESPONDENT

Date of Decision : 05-08-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 17B, 340

Citation : (2011) 08 DEL CK 0033

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Gulshan Chawla, for the Appellant;

Judgement

Rajiv Sahai Endlaw, J.—The report of the notice of CM Nos. 10897-98/2010 issued to the Respondent No. 1 workman is still awaited.

2. The writ petition has been filed impugning the award dated 14th February, 2005 of the Industrial Adjudicator holding the Petitioner employer to have illegally and unjustifiably terminated the services of the Respondent No. 1 workman and directing the Petitioner employer to reinstate the Respondent No. 1 workman with full back wages and continuity of service.

3. Notice of the petition was issued and vide order dated 24th February, 2008, subject to the Petitioner employer depositing the entire awarded amount in this Court, the operation of the award was stayed. The counsel for the Petitioner employer states that in pursuance to the said order a sum of Rs. 1,30,000/- was deposited in the Court.

4. The Respondent No. 1 workman applied u/s 17B. On 17th July, 2009 the Petitioner employer offered to reinstate the Respondent No. 1 workman without prejudice to the rights and contentions in the writ petition. However vide order dated 27th January, 2010 the Petitioner employer was directed to make payment u/s 17B. The writ petition was directed to be listed in due course.

5. The matter was thereafter listed on 3rd June, 2010 when the counsel for the Respondent No. 1 workman stated that the order u/s 17B had not been complied with.

6. The Petitioner employer thereafter filed CM Nos. 10897-98/2010 for modification of the order u/s 17B and u/s 340 Code of Criminal Procedure respectively averring inter alia that the Respondent No. 1 workman had been employed with M/s Orient Craft Ltd. since 1st April, 1996 and had falsely stated before this Court that he was unemployed. The Respondent workman on 16th August, 2010 admitted that he had been so gainfully employed. Accordingly, notice of the said applications was issued and accepted by the counsel for the Respondent No. 1 workman and time sought for filing reply.

7. The Respondent No. 1 workman thereafter stopped appearing in these proceedings. Though CM Nos. 10897-98/2010 were dismissed in default on 8th February, 2011 but none had appeared for the Respondent No. 1 workman also before this Court on that date. The said applications were thereafter restored on 18th March, 2011 and notice issued as aforesaid.

8. In the circumstances aforesaid, need is not felt to adjourn the matter any further inasmuch as it is felt that the Respondent No. 1 workman upon the falsehood practiced by him being detected, is No. longer interested in contesting these proceedings.

9. Accordingly the order u/s 17B is recalled and the writ petition has been taken up for hearing.

10. In view of the aforesaid, the award of reinstatement and back wages with effect from the termination in 1992 also cannot be sustained. The writ petition is accordingly allowed and the award is set aside/quashed. It is however directed that the amount of Rs. 1,30,000/- deposited by the Petitioner employer together with interest thereon be not released/refunded to the Petitioner employer till 31st January, 2012 to await the application if any of the Respondent No. 1 workman for revival of the writ petition.

11. As far as the application being CM No. 10898/2010 of the Petitioner employer u/s 340 Code of Criminal Procedure is concerned, since the writ petition has been allowed, need is not felt to make any order thereon. It is however clarified that if the Respondent No. 1 workman applies for revival of the writ petition, the said application shall also stand revived.

12. The writ petition is disposed of. Costs of litigation were earlier paid to the Respondent No. 1 workman.