

(2009) 07 DEL CK 0291

In the Delhi High Court

Case No : Writ Petition (C) No. 10456 of 2009 and CM No. 9174 of 2009

Sahan Institute, Federation for Mentally Retarded (India)

APPELLANT

Vs

Ranjit Singh

RESPONDENT

Date of Decision : 28-07-2009

Acts Referred:

Industrial Disputes Act, 1947 — Section 2(j)

Citation : (2009) 7 ILR Delhi 378

Hon'ble Judges : S.N. Aggarwal, J

Bench : Single Bench

Advocate : P. Ramesh Kumar, for the Appellant;

Final Decision : Dismissed

Judgement

S.N. Aggarwal, J.—This writ petition filed by the petitioner management is directed against an industrial award dated 04.04.2009 passed by

Shri Sanjay Garg, Presiding Officer, Labour Court-V, Delhi by which the respondent has been awarded compensation of Rs. 70,000/- in lieu of

his claim for reinstatement and back wages. Heard.

2. Briefly stated, the facts of the case are that the respondent who was appointed as a Peon with the petitioner management w.e.f. 22.05.1995.

His last drawn wages were Rs. 2800/- per month. He along with his colleague Chhabi Lal misbehaved with a lady teacher on 16.09.2005 and it is

alleged that for that reason, the respondent's colleague, Mr. Chhabi Lal resigned on his own whereas the respondent stopped coming to the

petitioner school after 30.09.2005.

3. The respondent being the workman alleges his termination from the service of the petitioner management w.e.f. 01.10.2005 and aggrieved by

his impugned termination, he raised an industrial dispute which was referred by the appropriate Government for adjudication to the Labour Court.

The Labour Court on the basis of evidence adduced by the parties before it arrived at a conclusion that the termination of the respondent from the service of the petitioner was unjustified and illegal and was violative of principles of natural justice.

4. The petitioner management is aggrieved by the impugned award of the Industrial Adjudicator, Mr. P. Ramesh Kumar, learned counsel

appearing on behalf of the petitioner, has argued that the impugned award is liable to be struck down because the petitioner is neither an industry

within the meaning of Section 2(j) of the Industrial Disputes Act, 1947 nor it had terminated the services of the respondent as alleged by him.

5. According to the learned counsel appearing on behalf of the petitioner, the respondent had stopped reporting for duty w.e.f. 01.10.2005 and it

was, therefore, a case of abandonment of service by the workman and not of termination.

6. I have carefully gone through the impugned award and find that both the above points urged by counsel for the petitioner have been dealt with in

the said award. Cogent reasons have been given in the impugned award for holding the petitioner an industry within the meaning of Section 2(j) of

the Industrial Disputes Act, 1947 and for that reliance has also been placed upon a judgment of the Hon'ble Supreme Court in Bangalore Water

Supply and Sewerage Board Vs. A. Rajappa and Others, wherein a triple test is laid down to ascertain whether an establishment is an industry or

not. (i) systematic activity; (ii) co-operation between employer and employee; and (iii) the production and/or distribution of goods and services

calculated to satisfy human wants and wishes.

7. I am in agreement with the reasoning given in the impugned award to hold that the petitioner is an industry within the meaning of Section 2(j) of

the Industrial Disputes Act, 1947.

8. The contention of the petitioner that the respondent himself had abandoned the services of the petitioner was not believed by the Court below

for cogent reasons. This Court is not sitting in appeal over the award given by the Industrial Adjudicator. This Court can interfere in the impugned

award only in case it is found that the award suffers from perversity. The test to

determine whether an award suffers from perversity or not is the test of a prudent and a reasonable man as to whether any reasonable man would not arrive at the same conclusion as arrived by the Industrial Adjudicator on the evidence that was produced by the parties before it. In the present case, the Industrial Adjudicator has rightly held the termination of the respondent to be illegal and unjustified.

9. Learned counsel appearing on behalf of the petitioner has lastly argued that the compensation of Rs. 70,000/- awarded by the Industrial

Adjudicator is on a higher side and may be reduced by this Court keeping in view that the petitioner is no longer receiving any grant from the

Government for its institute and that the institute is being run on individual donations. This argument has also not impressed me. The respondent

before his impugned termination had worked with the petitioner for more than 10 years. It was found that his services were wrongly terminated by

the petitioner management. His last drawn wages were Rs. 2800/-per month. These facts have not been disputed by the management. Under these

circumstances, the compensation of Rs. 70,000/- awarded by the Industrial Adjudicator to the workman in relation to his claim for reinstatement

and back wages, by no means, can be said to be excessive or unreasonable. In view of the above and having regard to the facts of the case, I do

not find any merit in this case which fails and is hereby dismissed in limine.