
(2009) 09 DEL CK 0218

In the Delhi High Court

Case No : Writ Petition (C) No. 11649 of 2009

Sh. Harbans Singh

APPELLANT

Vs

Juggat Pharma

RESPONDENT

Date of Decision : 14-09-2009

Acts Referred:

Constitution of India, 1950 — Article 226
Industrial Disputes Act, 1947 — Section 2

Citation : (2009) 09 DEL CK 0218

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

Bench : Single Bench

Advocate : Yakesh Anand, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

S.N. Aggarwal, J.

C.M. No. 11518/2009 (Exemption) in W.P.(C.) No. 11649/2009

Exemption as prayed for is granted subject to all just exceptions.

W.P.(C.) No. 11649/2009

1. The petitioner in this writ petition seeks to challenge an industrial award dated 25.04.2009 by which his termination from the services of the respondent has been found to be legal and justified and for that reason, he has been denied any relief by the Industrial Adjudicator.

2. Heard on admission.

3. Mr. Yakesh Anand, learned Counsel appearing on behalf of the petitioner, contends that the impugned award suffers from perversity because according to him, the court below has completely failed to look into the evidence of the management to ascertain the nature of duties performed by the petitioner in the course of his employment. He has drawn my attention to para 31 of the

impugned award at page 48 of the paper book. I have gone through the impugned award line by line and word by word and have considered the submissions made by counsel for the petitioner. The contention of Mr. Anand appearing on behalf of the petitioner is that the petitioner, though appointed as Area Sales Manager at the time of his termination, was performing duties of clerical nature and therefore was not excluded from the purview of definition of "Workman" given in Section 2(s) of the Industrial Disputes Act, 1947. On a perusal of the impugned award, I find that the court below has reached to a conclusion that the petitioner was not a workman within the meaning of Section 2(s) on the basis of cogent evidence. It is not disputed that the petitioner while working as Area Sales Manager with the respondent acted as an appointing authority for the medical representatives. In fact the advertisement for filling up of vacant posts of medical representatives in the respondent establishment was issued in the name of the petitioner. He was a member of the Interview Board. The appointment letters to the medical representatives selected by the petitioner were issued under his signatures. The petitioner in fact has admitted in the petition in ground VI (i) & (iii) at pages 12 & 13 of the paper book that he was the best executive of the respondent company and that he was elevated from the designation of Field Sales Manager to Area Sales Manager because of his best performance. It is an admitted case of the petitioner himself that he had been heading the team of Field Sales Managers and of medical representatives for promoting the sale of products of the respondent company. He was getting facilities of air travel and stay in hotel as and when he used to be on official duties. The salary of the petitioner at the time of his termination was admittedly more than Rs. 1,600/-. Under the circumstances, the conclusion arrived at by the court below that the petitioner does not fit in the definition of workman given in Section 2(s) cannot be faulted with. The court below has also taken note of the fact that the petitioner after his services were allegedly terminated by the respondent management had settled his accounts with the respondent management vide document Ex. MW-1/16 and was paid Rs. 67,008/- in full and final settlement of his accounts with the respondent management. Not only that, the petitioner after leaving the employment of the respondent admittedly took up a higher job with M/s Lark Laboratories as admitted by him in his cross-examination.

4. In view of what has been stated above, I do not find any infirmity, perversity or illegality in the impugned award that may call for an interference by this Court in exercise of its extraordinary discretionary writ jurisdiction under Article 226 of the Constitution. This writ petition therefore fails and is hereby dismissed in limine.