

(2003) 09 DEL CK 0157
In the Delhi High Court
Case No : CW 1599 of 2002

Shanti Chandela

APPELLANT

Vs

Pramod Nath and Co.

RESPONDENT

Date of Decision : 22-09-2003

Acts Referred:

Citation : (2004) 1 AD 68 : (2003) 108 DLT 101 : (2004) 2 SLJ 346

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Advocate : D.N. Vohra, for the Appellant; D.R. Bhatia, for the Respondent

Final Decision : Allowed

Judgement

Mukul Mudgal, J.—Another request is made for adjournment on behalf of the learned counsel for respondent No.1. Such request for adjournment was already allowed on 23rd July, 2003. No reason is stated as to why the adjournment is sought on behalf of the counsel for respondent No.1. Accordingly, the prayer for adjournment is rejected.

2. Rule.

3. The writ petition is taken up today for final hearing.

4. In the present case, the impugned Award dated 28th March, 2001 proceeded against the workman, Shri Om Prakash (since deceased) and represented through his widow, Smt. Shanti Chandela in this writ petition on the ground that he did not present himself before the Industrial Tribunal-I, Delhi for cross-examination. The ground stated in the present writ petition for the non-appearance of the petitioner was that the case was adjourned before the Tribunal on the following dates:-

"That on 28.1.2000, 28.2.2000, 5.4.2000, the management sought time for settlement.

That on 19.5.2000 the case adjourned by the Court.

That on 25.8.2000 the Presiding Officer was on leave.

That on 20.9.2000 both parties sought adjournment.

That on 7.11.2000 the presiding officer was on leave."

5. Time was sought by the petitioner's representative only on 24th January, 2001 till 28th March, 2001 when the impugned award was passed against the petitioner/workman. On 17th April, 2001, the petitioner had challenged the said ex-parte award by way of an application for setting aside the ex-parte award and the impugned Order dated 15th October, 2001 refused to set aside the ex-parte award and inter alias pleaded that she as widow of the deceased workman sought accommodation for her authorized representative which was declined and the impugned award passed.

6. Considering the fact that during the pendency of the proceeding before the Tribunal, the original claimant, Shri Om Prakash died on 3rd March, 1999 and was being represented by his widow, the delay in the proceedings before the Tribunal is understandable and this factor should have been given due weight. Consequently, the impugned Order dated 15th October, 2001 as well as the award dated 28th March, 2001 are set aside and the matter is remanded back to the Industrial Tribunal-I, Room No.44, Karkardooma Courts, Delhi for deciding the matter on merits and in accordance with law not later than 31st August, 2004. Parties to appear before the Tribunal for directions on 10th December, 2003.

7. The writ petition stands allowed and disposed of as such.