
(2009) 07 DEL CK 0317

In the Delhi High Court

Case No : Writ Petition (C) No. 10015 of 2009

Shri Om Prakash

APPELLANT

Vs

Lamba Plastics

RESPONDENT

Date of Decision : 13-07-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 125 FLR 614

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

Bench : Single Bench

Advocate : Deepali Gupta, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

S.N. Aggarwal, J.

CM No. 8348/2009 in WP (C) No. 10015/2009

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

WP (C) No. 10015/2009 & CM No. 8347/2009 (for stay)

This writ petition filed by the workman (petitioner herein) is directed against an award dated 01.09.2008 passed by Shri Girish Kathpalia, POLC-XIX rejecting his claim for reinstatement or back wages.

2. Heard on admission.

3. 12 workmen including the petitioner who were in the employment of M/s Lamba Plastics (respondent herein) and were allegedly terminated on 12.06.2001 had raised an industrial dispute with regard to their termination which was referred by the appropriate Government for adjudication to the Labour Court. 6 out of the 12 workmen, who had raised the industrial dispute opted not to file their statement of claim after the dispute was referred by the Government to the Labour Court. 3 out of the remaining 6 workmen did not appear for their

cross-examination after filing their affidavits in chief. This left the Labour Court with only 3 workmen out of 12 who had initially raised the industrial dispute with regard to their termination.

4. The workmen whose dispute relating to their termination was adjudicated by the Labour Court after considering the evidence produced by the parties before it has reached to a conclusion that the petitioner along with the other 2 workmen had left the employment of the respondent after receiving full and final payment from the management and the said finding recorded by the Court below is corroborated by the books of account of the management Ex. MW1/WX1 and Ex. MW1/WX2.

5. The case of the workmen including that of the petitioner before the Court below was that their services were illegally terminated by the management w.e.f. 12.06.2001. The management in its written statement filed before the Labour Court (page 39 of the Paper Book) took a categorical stand that the workmen concerned had left their job on their own after taking their dues from the management company. The case of the management before the Labour Court was that there was no existing dispute between the parties that require adjudication. The petitioner (workman) filed rejoinder to the reply of the management which is at page 43 of the Paper Book. In the rejoinder, though the petitioner has denied having left the job after settling the dues with the management company but did not take any plea either in the statement of claim or in the rejoinder that the management had obtained his signatures either under pressure or on some blank papers. This plea was introduced by the workman for the first time when he appeared for his evidence. It may be noted that the petitioner in the course of his cross-examination before the Labour Court has admitted his signatures on the full and final payment receipt with which he was confronted by the management.

6. Ms. Deepali Gupta, learned Counsel appearing on behalf of the petitioner, contends that the workman had admitted only his signatures on full and final payment receipt and not the contents of the receipt. This argument was noted by the Labour Court in the impugned award only to be rejected. When the petitioner had not taken any plea with regard to the full and final payment receipt relied upon by the management, then how the petitioner can be permitted to say that the contents of the receipt are not correct. The conclusion regarding the fact that the petitioner had left the service of the respondent after getting full and final payment arrived at by the Court below is based upon cogent evidence and this Court does not find any reason to interfere in the said award which in exercise of its extraordinary discretionary writ jurisdiction under Article 226 of the Constitution.

7. In view of the above, I do not find any merit in this writ petition which fails and is hereby dismissed in limine. The stay application is also dismissed.