

(2009) 08 DEL CK 0203

In the Delhi High Court

Case No : Writ Petition (C) No. 4714 of 2004 and C.M. No. 12725 of 2005

Shri Rajan Nair

APPELLANT

Vs

Krishnan Associates (P) Ltd.

RESPONDENT

Date of Decision : 26-08-2009

Acts Referred:

Citation : (2009) 08 DEL CK 0203

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

Bench : Single Bench

Advocate : R.K. Tripathi, for the Appellant; Jagat Arora, for the Respondent

Final Decision : Allowed

Judgement

S.N. Aggarwal, J.—The workman Mr. Rajan Nair, in this writ petition, is aggrieved by an award dated 06.10.2003 in ID No. 33/1987 passed by the Industrial Adjudicator dismissing his claim for reinstatement and back wages for want of territorial jurisdiction.

2. The Petitioner was appointed as Quality Control Inspector with the management of the Respondent w.e.f. 08.10.1983. The registered office of the Respondent was in Delhi and it had its factory at Noida. The appointment of the Petitioner was for the factory of the Respondent at Noida. The Petitioner was allegedly terminated by the Respondent w.e.f. 28.03.1986. The factory of the Respondent at Noida was closed down on 30.11.1985. The Petitioner in his statement of claim filed before the Labour Court has alleged that before his services were terminated by the Respondent w.e.f. 28.03.1986, he was asked by the management of the Respondent to go and report for duty with M/s Prima Engineering at Faridabad and was insisting on the Petitioner to put up his paper for resignation. Since the Petitioner did not agree with the proposal of the management of the Respondent for putting up his paper for resignation, his services were allegedly terminated by the Respondent w.e.f. 28.03.1986. The Petitioner aggrieved by his termination had raised an industrial dispute which

was referred by the appropriate Government in Delhi for adjudication to the Labour Court. The Labour Court vide its impugned award has dismissed the reference made to it for want of territorial jurisdiction.

3. Mr. R.K. Tripathi, learned Counsel appearing on behalf of the Petitioner contends that the appointment letter as well as termination letter were both issued to the Petitioner by the Respondent from its registered office at Delhi. Learned Counsel appearing on behalf of the Petitioner has further submitted that the Petitioner was even drawing his salary from the Respondent in Delhi. The Petitioner has produced evidence to prove both these facts mentioned above before the Labour Court but strangely enough, the Labour Court has not considered the evidence on this aspect produced by the Petitioner while dismissing the reference for want of territorial jurisdiction. These are important aspects of the matter to decide the question of territorial jurisdiction for entertaining an industrial dispute raised by a workman. In the considered opinion of this Court, the impugned award of the court below suffers from perversity as it has failed to take into account the fact that the Petitioner was appointed by the Respondent from its registered office at Delhi and that his services were also terminated from Delhi and further that he was getting his salary from Delhi though he was working at Noida.

4. For the foregoing reasons, the impugned award is set aside. This writ petition is allowed. The case is remanded back to the concerned Labour Court/successor court for adjudication of the claim of the Petitioner on merits after giving an opportunity of hearing to both the parties as per law. The Labour Court is directed to decide the dispute between the parties as expeditiously as possible preferable within eight months from today. The parties are directed to appear before the concerned Labour Court/successor court for directions at 02:00 PM on 10.09.2009. This writ petition stands disposed of accordingly.

A copy of this order be sent to the concerned Labour Court/successor court for inform action and necessary compliance forthwith.