

(2011) 05 DEL CK 0350

In the Delhi High Court

Case No : Letters Patent Appeal No. 681 of 2010

Subhash Chand Tyagi

APPELLANT

Vs

DCM Shriram Industries Ltd.

RESPONDENT

Date of Decision : 10-05-2011

Acts Referred:

Industrial Disputes Act, 1947 — Section 17B, 33A

Citation : (2011) 05 DEL CK 0350

Hon'ble Judges : Dipak Misra, C.J.; Sanjiv Khanna, J

Bench : Division Bench

Advocate : Party in Person, for the Appellant;

Final Decision : Dismissed

Judgement

Sanjiv Khanna, J.—We have heard Subhash Chand Tyagi, the Appellant in person. He submits that he was under confusion and had no intention to compromise or settle the matter and, therefore, the two orders dated 13th April, 2010 and 17th May, 2010 passed by the learned single Judge should be set aside.

2. The Appellant herein is not an illiterate person, but a practicing Advocate. He had earlier worked with the Respondent company from 1972 till 4th May, 1987. It was alleged that he had fabricated bills for withdrawing money. By an ex-parte order dated 14th September, 2011, the Labour Court allowed the application filed by the Appellant u/s 33A of the Industrial Disputes Act. The Respondent's application for setting aside of the ex-parte order was dismissed. Being aggrieved, the Respondent company had filed a writ petition in Delhi High Court in the year 2004 and the said writ petition had remained pending till 2010.

3. Order dated 13th April, 2010 records the aforesaid facts and proceedings in detail including the statements/contentions made by the Respondent and the contention of the Appellant. Thereafter, it is recorded that the negotiations took place between the parties and it was agreed that on payment of Rs. 1,00,000/-, the Appellant would have no claim whatsoever against the Respondent under the

impugned order or otherwise. Statement of the Appellant was also recorded on oath before the learned single Judge. The said statement reads as under:

Statement of Shri Subhash Chand Tyagi, Advocate, aged about 57 years S/o Sh. N.K. Tyagi, R/o C-1, Plot No. 191, Ext.II, Shalimar Garden, Sahibabad, Distt. Ghaziabad. ONSA I am the Respondent in the above named petition. I have settled all my disputes and differences with the Petitioner. I withdraw my application u/s 17B of the I.D. Act. I have agreed to receive a sum of Rs. 1,00,000/- (Rupees One Lac) only from the Petitioner within one week of today in full and final settlement of all my claims against the Petitioner under the order impugned in this petition or otherwise. I affirm that I have not filed any other case / proceedings / complaint against the Petitioner or its Directors / officers and the application / complaint / other proceedings, if any, filed by me against the Petitioner or its Directors / officers shall stand withdrawn / dismissed in terms of the settlement arrived at by me today. I have further no objection to the Petitioner withdrawing Rs. 2,50,000/- (Rupees Two Lacs and Fifty Thousand) deposited before the Labour Court in proceedings initiated by me for enforcement of order impugned in this petition or any other amounts deposited with any other courts / foras in the dispute with me.

4. On the basis of the statement made by the Appellant, Rs. 2,50,000/- deposited by the Respondent was allowed to be withdrawn with a direction that the Appellant would be paid Rs. 1,00,000/- within one week in full and final settlement of all his claims under the impugned order or otherwise.

5. Thereafter, the Appellant had filed an application for review and recall of the order dated 13th April, 2010, which was dismissed vide order dated 17th May, 2010. In the said order it has been recorded as under:

Considering that the Respondent No. 1 is now a practicing advocate, attempt was made on 9th April, 2010 for amicable settlement of the matter. Certain proposals were exchanged and the matter was adjourned to 13th April, 2010. On 13th April, 2010 also negotiations were held. The Petitioner gave its last offer. The Respondent No. 1 was not agreeable to the same and as such arguments were heard on the pending application of the Respondent No. 1 u/s 17B of the ID Act. After hearing the arguments and not finding any merit therein, the order of dismissal of the said application was pronounced in the court and the writ petition ordered to be listed in the category of Finals.

Thereafter the Respondent No. 1 had mentioned the matter and informed that the last offer earlier given by the Petitioner was acceptable to him. As such, the counsel for the Petitioner was sent for and the settlement recorded and in the circumstances, the order u/s 17B earlier pronounced not typed.

However, the Respondent No. 1 who on that date also was appearing in person did not come to sign his statement.

Now, the present application has been filed and the contents whereof are

contrary to what had transpired in the court on 13th April, 2010.

6. The Appellant cannot be permitted to go behind the statement made on oath, which was recorded in the Court. Judicial proceedings must have sanctity and the statements made at the Bar and on oath have to be respected and obeyed. As noticed above, the Appellant herein is a practicing advocate and, therefore, it cannot be said that he was not aware and did not understand the bargain and the settlement. Order dated 17th May, 2010 reflects the conduct of the Appellant.

7. In view of the aforesaid, we do not find any merit in the present appeal and the same is accordingly dismissed without any order as to costs.