
(2002) 09 DEL CK 0142
In the Delhi High Court
Case No : C.W. No. 482 of 1999

Suresh Kumar

APPELLANT

Vs

P.O., Labour Court No. III and Another

RESPONDENT

Date of Decision : 11-09-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 103 DLT 233 : (2002) 95 FLR 1214 : (2003) 1 LLJ 624 :
(2003) 3 SLJ 393

Hon'ble Judges : Madan B. Lokur, J

Bench : Single Bench

Advocate : Sanjoy Ghosh, for the Appellant; Subhash Sharma, for the Respondent

Judgement

Madan B. Lokur, J.—The only question raised in this case is whether the learned Labour Court was right in granting only 40% of the back wages from the date of the demand notice, that is, 9th August, 1998.

2. The only reason given by the learned Labour Court for not giving full back wages is that the petitioner had not stated that he was unemployed since the date of his termination nor has he given the details of the efforts made by him to secure an alternative employment. Learned Counsel for the petitioner has drawn my attention to the examination-in-chief of the petitioner in which it has been specifically stated as under:

"I am unemployed since the date of my termination."

3. No suggestion to the contrary was made by the petitioner in his cross-examination. Quite clearly, the learned Labour Court has proceeded on a factually incorrect basis.

4. There was reason for the petitioner to state what steps he had taken to obtain alternate employment. The fact is that he did not have alternate employment regardless of the steps taken by him.

5. Since no other reason has been given for denying full back wages, the impugned award is set aside to this extent. The petitioner will be entitled to full back wages from the date of the demand notice.

6. No further orders are required to be passed. The writ petition stands disposed of.