

(2007) 07 DEL CK 0198

In the Delhi High Court

Case No : Writ Petition (C) No. 5315 of 2007

Suresh Kumar

APPELLANT

Vs

The Management of Monsanto Enterprise Pvt. Ltd.

RESPONDENT

Date of Decision : 31-07-2007

Acts Referred:

Constitution of India, 1950 — Article 226
Evidence Act, 1872 — Section 73

Citation : (2007) 07 DEL CK 0198

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : C. Jayaraj, for the Appellant; Rajeshwari Shukla, for the Respondent

Final Decision : Dismissed

Judgement

Hima Kohli, J.—The present writ petition is directed against a no relief award dated 27th November, 2002 passed by the Presiding Officer, Labour Court, whereunder it was held that the petitioner had himself resigned from his job and had received his full and final payment from the respondent management.

2. In a nutshell, facts of the case are that the petitioner joined the services of the respondent management as a Peon in January, 1989 and his last drawn wages were Rs. 4,675/- p.m. It is alleged by the petitioner that the respondent management kept the petitioner workman as a temporary/casual hand for almost five years in order to deny him the benefits of a permanent workman and that he was confirmed in service only on 1st May, 1994 after repeated demands, that the respondent management took the signature of the petitioner workman on a number of blank papers and receipts, and handed over a letter to him on 30th September, 1997 directing him to join the respondent management's office at Madras, which according to the petitioner workman, did not exist at all. However, the petitioner workman requested the respondent management to let him join the Madras office after 5-6 months and continued to work at Delhi till April 1998. It is also alleged that the workman was not paid his wages from December, 1997

to April, 1998, and that he went on leave of 3 months after getting the same sanctioned, to visit his wife who was ill; that he was forced to extend his leave till 13th September, 1998 and resumed duties on the said date. However, it is alleged that on 18th September, 1998, the workman was handed over a Demand Draft for a sum of Rs. 39,724/- and the respondent management also got some papers signed by him claiming that the amount was being paid to him on account of arrears of salary. The case put forward by the petitioner workman is that when he reported for duty on 19th September, 1998, he was not allowed to join, and it was only in December, 1998 that he got to know that his services had been terminated.

3. Pursuant to the said termination of his service, the petitioner served the respondent management with a legal notice dated 7th January, 1999 and not receiving any reply to the same, a dispute was raised. Thereafter conciliations proceedings followed, but on the failure of the same, the matter was referred to the Labour Court for adjudication in the following terms of reference:

Whether Sh. Suresh Kumar has received his full and final dues after resigning from his services of his own, or his services have been terminated illegally and/or unjustifiably, and if so, to what relief is he entitled and what directions are necessary in this respect?

4. As against the statement of claim filed by the petitioner before the Labour Court, the respondent management filed its written statement, wherein a preliminary objection was taken to the effect that the petitioner workman was appointed as a Peon w.e.f. 1st January, 1997. It was stated that the petitioner workman was transferred from Delhi office to Madras effective as of 1st November, 1997, but pursuant to his transfer orders, he failed to join at Madras and kept taking leaves on one pretext or the other and finally resigned voluntarily on 29th April, 1998 and received all the monetary benefits in full and final settlement on 14th September, 1998. It was denied that the petitioner workman was deprived of any legal benefits of annual leave etc. It was submitted that the case of the petitioner workman was not that of termination of service, but one of voluntary resignation from service.

5. On the basis of the pleadings of the parties, the following issues were framed for trial:

1. Whether the workman himself resigned from his job and received his full and final? OPM

2. As per terms of reference.

6. Thereafter, evidence was recorded and after carefully examining the evidence, the documents filed by the parties, as also the pleadings of the parties, the Labour Court arrived at the finding that the petitioner had himself resigned from his job and had received his full and final payment from the respondent management.

7. Learned Counsel for the petitioner submits that the Labour Court failed to adjudicate the real question in dispute, i.e., whether the signature of the petitioner was obtained by the respondent management fraudulently on the alleged resignation letter dated 29th April, 1998 or the petitioner voluntarily resigned from service and that instead of giving a finding on this question, it proceeded to find out whether the signature on the said resignation letter was actually that of the petitioner workman or not. It was submitted that while the petitioner workman was not much educated and used to communicate with the respondent management in Hindi, the alleged resignation letters were in English.

8. It is stated that so far as the letter of transfer dated 30th September, 1997 is concerned, the same was issued with malafide intentions so as to obtain a resignation letter from the petitioner workman and that the Labour Court completely ignored the fact that the respondent management had closed its establishment at Chennai w.e.f. 30th April, 1998, whereas the alleged resignation letter is dated 29th April, 199, the proximity between the events showing that the respondent management issued a transfer order initially and contemporaneously obtained the so-called resignation letter from the petitioner workman fraudulently.

9. Yet another contention raised by the counsel for the petitioner is that the Labour Court failed to observe that the respondent management fraudulently obtained the signature of the petitioner workman on the receipt for the amount of Rs. 37,392.50 by misrepresenting that the amount was on account of the arrears of salary payable to the petitioner workman.

10. It may be stated at the very outset that the present petition is hopelessly barred by delay and laches inasmuch as the impugned award was passed on 27th November, 2002, while the present petition has been filed only in July, 2007, i.e., after almost 4-1/2 years from the date of passing of the impugned award. No grounds whatsoever have been made out for explaining the delay in filing the petition. Since the petitioner workman has failed to give any Explanation, much less any satisfactory Explanation for the said delay, the writ petition deserves to be dismissed on the ground of delay and laches alone.

11. Even on merits, the present petition cannot succeed. A perusal of the impugned award reveals that while coming to the conclusion that the workman had voluntarily tendered his resignation to the respondent management and there was no termination of his services by the respondent management, the Labour Court has taken into account the evidence tendered by the witnesses including the deposition of petitioner workman that he had received an amount of Rs. 37,392.5/- through demand draft from the respondent management. On perusal of the resignation letter dated 29th April, 1998, the Labour Court observed that the said letter made it manifest that the petitioner workman had himself made a request to the respondent management to accept his resignation and relieve him at the earliest and it was also mentioned therein that he was resigning due to some unavoidable reasons. It was recorded that the respondent

management had proved the full and final settlement receipt dated 14th September, 1998 and that the stand of the petitioner workman that the respondent management had obtained his signatures on the blank papers by misrepresentation was not established since he had not made any complaint of the same to the Labour Department or the Labour Union.

12. Coming to the other contention of the petitioner, that the Labour Court wrongly proceeded to find out whether the signature on the said resignation letter was actually that of the petitioner workman or not, the said plea is devoid of merits. As is evident from a perusal of the impugned award, the respondent management had moved an application u/s 73 of the Indian Evidence Act for comparing the disputed signature with the admitted signatures of the petitioner workman, and the Authorized Representative of the petitioner workman had himself submitted that he had no objection to the same. Therefore the petitioner workman cannot be allowed to raise such an objection at this stage against an act, to which he had himself given his consent before the Labour Court.

13. Even otherwise, all the contentions raised by the petitioner by way of the present petition, if entertained would amount to reappreciation of evidence and interference with findings of facts arrived at by the Labour Court, which is beyond the scope of judicial review. Law is well settled in this respect that it is not appropriate for this Court, while exercising jurisdiction under Article 226 of the Constitution, to reappreciate evidence or to interfere with the findings of facts as arrived at by the Labour Court. The jurisdiction exercised by the writ court under Article 226 is supervisory and not appellate in nature. Reappraisal of evidence without sufficient reason in law, to arrive at a finding of fact contrary to those arrived at by the Subordinate Court, is not the intent of exercising the powers of judicial review. Reliance in this regard can be placed on the following judgments of the Supreme Court:

(i) Harbans Lal Vs. Jagmohan Saran,

(ii) B.C. Chaturvedi Vs. Union of India and others,

(iii) Indian Overseas Bank v. I.O.B. Staff Canteen Workers" Union AIR 2000 SC 1508

(iv) Municipal Corporation of Delhi Vs. Asha Ram and Another,

14. In the instant case, in view of the gross delay of four and a half years in challenging the impugned award, coupled with the fact that even on merits the petitioner has failed to make out any case for interference with the impugned award and also considering the position of law as discussed above, the writ petition is dismissed in limine as being devoid of merits. No order as to costs.