

Reshma Devi Vs. Goct. of Nct and anr.

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Court : Delhi

Decided On : Aug-11-2014

Judge : Suresh Kait

Appellant : Reshma Devi

Respondent : Goct. of Nct and anr.

Judgement :

§~12 * IN THE HIGH COURT OF DELHI AT NEW DELHI Judgment delivered on:

11. h August, 2014 + W.P.(C) No.6870 /2013 RESHMA DEVI Represented by:
Petitioner Mr. Rajender Yadav, Advocate. Versus GOCT. OF NCT & ANR.
Represented by: Respondents Mr. Raavi Birbal and Mr. Nishant Anand,
Advocates for Respondent No.1. Ms.Monica Kapoor, Advocate for Respondent
No.2. CORAM: HONBLE MR. JUSTICE SURESH KAIT SURESH KAIT, J.

(Oral) 1. Vide the present petition, the petitioner is seeking modification in the award dated 23.03.2012, passed by the Presiding Officer Labour Court-IX, Kakardooma Courts Delhi, in I.D. No.799/2009, titled as Sh.Shyam Kataria Vs. M/s Shyam Fruit Co.,.

2. The petitioner is also seeking direction to pay full back wages at the rate of minimum wages from the date of termination of services of the deceased workman to her, i.e., wife of the deceased workman.

3. Admittedly, the claim petition was filed by the respondent workman before the learned Labour Court on 21.12.2009 and the award was passed on 23.03.2012.

4. As noted in the aforesaid award, on 27.05.2011, the learned Labour Court framed the issues as under:

(1) Whether the claimant had been working with the management regularly since 1991 at the post of Munshi/Clerk drawing wages @ Rs.4,500/- per month?.

5. (2) Whether the workman completed 240 days of continuous service with the management during the preceding twelve months from the alleged date of his termination?. (3) Whether the services of the workman have been terminated illegally and/or unjustifiably by the management?. (4) Relief.

To adjudicate the instant petition, aforesaid issue No.1 is relevant.

6. Admittedly, neither the workman nor the respondents produced any record to prove that the deceased workman was working with the Management since 1991 and his last drawn salary was Rs.4,500/- per month. However, the burden to prove this issue was upon the deceased workman.

7. Learned counsel for the petitioner has fairly conceded that there is no document which may demonstrate that the deceased workman was working with the Management since 1991 and his last drawn salary was Rs.4,500/-p.m.

8. It is pertinent to note that the Management admitted that the workman was working on a monthly salary of Rs.4,000/-.

9. Hence, the petitioner failed to prove before the learned Labour Court that the deceased workman was working with the Management since 1991. So is the position in this petition.

10. Moreover, neither the deceased workman nor the petitioner challenged the impugned award dated 23.03.2012, rather accepted the same and received the amount as per the aforesaid award.

11. The petitioner is wife of the deceased workman, who challenged the award after a gap of ten months of demise of her husband.

12. In view of the above noted facts, I do not find any merit in the instant petition. The same is dismissed accordingly. SURESH KAIT (JUDGE) AUGUST11 2014 sb

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