

Mukesh Kumar Vs. P.O., Labour Court No. Ix (Delhi) and anr.

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SooperKanoon Citation : sooperkanoon.com/691546

Court : Delhi

Decided On : Feb-07-2000

Reported in : 2000IIIAD(Delhi)339; 84(2000)DLT256

Judge : A.K. Sikri, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : CWP No. 492 of 1999

Appellant : Mukesh Kumar

Respondent : P.O., Labour Court No. Ix (Delhi) and anr.

Advocate for Def. : Mr. Sunil Goyal, Adv.

Advocate for Pet/Ap. : Mr. Rajeev Agarwal, Adv

Judgement :

ORDER

A.K. Sikri, J.

1. Rule.

With the consent of parties, the matter is taken up for final disposal at this stage.

2. Ex parte award was passed against the petitioner. Perusal of the said award dated 3.11.1995 shows that when the case was listed on 3.11.1995, the workman had appeared in the morning. However, since he did not appear thereafter till 2.15 p.m. the award was passed against him. The petitioner moved the application on the same date i.e. on 3.11.1995 itself stating that he could not appear in time and requested for giving short date. It was followed by another application dated 20th February, 1996. The Labour Court dismissed the application dated 20th February, 1996 by order dated 5th March, 1998 on the ground that it had become functus officio. However, the Labour Court lost sight of the fact that first application was moved on 3.11.1995 itself which is annexed to this paper book as Annexure P-3 and today Mr. Aggarwal has produced certified copy of this application also. Since, the application was filed on the same date on which the award was passed Labour Court had not become functus officio and could entertain the application. The impugned order dated 5.3.1998 is accordingly set aside. The matter is accordingly remanded back to the Labour Court. Parties to appear before the Labour Court on 21st February, 2000. The Labour Court will decide the applications on merits within one month from the date of appearance before me.

3. The order be given dusty to both the parties.