

M.C.D. Vs. Ram Kumar and anr.

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Court : Delhi

Decided On : Sep-11-2002

Reported in : 102(2003)DLT781; 2003(1)SLJ211(Delhi)

Judge : Madan B. Lokur, J.

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

Appeal No. : C.W. No. 415 of 1997

Appellant : M.C.D.

Respondent : Ram Kumar and anr.

Advocate for Def. : Sanjoy Ghosh, Adv.

Advocate for Pet/Ap. : Amita Gupta, Adv

Judgement :

Madan B. Lokur, J.

1. The petitioner is aggrieved by an Award dated 4th March, 1996 passed by the learned Labour Court in LC ID No. 298/1988.

2. The following question was referred for adjudication:

'Whether the services of Shri Ram Kumar, Mali/Beldar have been terminated illegally and/or unjustifiably by the management and if so, to what relief is he entitled and what directions are necessary in this regard?'

3. The respondent/Workman had stated that he had worked in several areas of Delhi including Roshanara Bagh, Sadar Pahar Ganj Zone and again in Roshanara Bagh. According to him, he had worked from 5th March, 1985 till 25th June, 1987.

4. The petitioner denied that he had worked during the entire period or that he had completed 240 days of work.

5. The petitioner produced Sadhu Ram as MW1. However, MW1 produced the muster roll only for a part of period, that is, October and November, 1985. Learned Counsel for the petitioner has placed on record that muster roll for the period from July, 1985 up to November, 1985 onwards. There is nothing to show from the side of the petitioner that as per the muster roll, the respondent/workman did not work after November, 1985.

6. The learned Labour Court looked into the evidence on record and concluded that the petitioner has failed to prove even a single document regarding the employment of the respondent/workman or the nature of work or duration of work. The entire muster roll was not produced before the learned Labour Court nor before me.

7. In view of the fact that the petitioner had not produced any worthwhile evidence to show that the respondent/workman had not worked for the period claimed by him and that he had not put in 240 days of service, the learned Labour Court set aside the termination of the respondent/workman and directed his reinstatement in service with 50% back wages.

8. The learned Labour Court considered the evidence on record and came to the conclusion that the termination of the petitioner was not justified and that he had put in more than 240 days of service between 1985 and 1987.

9. I find no perversity in the conclusion arrived at by the Labour Court. It is quite clear that the requisite evidence was not produced by the petitioner to deny the

claim of the respondent/workman.

10. On the question of back wages, the only reason given by the learned Labour Court for denying full back wages is that the 'ends of justice' will be met if the respondent/workman is given only 50% back wages. There is nothing to show from the impugned Award any fact which was considered by the learned Labour Court in denying full back wages to the respondent/workman. There is nothing to indicate how the 'ends of justice' would be met if the respondent/workman is denied full back wages. Admittedly, the respondent/workman was not gainfully employed elsewhere.

11. Under the circumstances, the writ petition is dismissed. The respondent/workman will be entitled to full back wages for the period from the date of notice or demand till the date of reinstatement, a prayer made by him in the connected writ petition.

The writ petition stands disposed of.

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