

K.M. Industries Vs. Karan Kumar

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Court : Delhi

Decided On : May-25-2009

Reported in : (2009)IVLLJ739Del

Judge : Neeraj Kishan Kaul, J.

Appeal No. : L.P.A. No. 249/2009

Appellant : K.M. Industries

Respondent : Karan Kumar

Advocate for Pet/Ap. : Vijay Chopra and; L.C. Rajput, Adv

Disposition : Appeal dismissed

Judgement :

Neeraj Kishan Kaul, J.

1. The present appeal is directed against the order of the learned single Judge dated May 1, 2009.

2. A reference was made for an industrial dispute raised by the respondent (original respondent in the writ petition). As per the respondent, he had been engaged under employment of the appellant for the last six years prior to the date of his dismissal on the post of 'Pressman'. It was urged by the respondent before

the Labour Court that he had an unblemished track record and the Management had resorted to unfair labour practices. As per the respondent, the Management had not issued any appointment letter at the time of appointment or during the course of his employment despite repeated demands. He urged that his services were terminated without assigning any reason or cause or without serving any notice after withholding the salary of 22 days.

3. On the other hand, it was argued on behalf of the Management before the Labour Court that it was the workman who had abandoned his services and it was not a case of unjustifiable termination. The Management' contended that the entire payment amounting to Rs. 7,000/- towards full and final settlement had been made. However, the Labour Court took note of the fact that the Management failed to produce any document to show that the settlement had been made towards full and final payment and that the workman had left of his own free volition. It was also pleaded on behalf of the Management that the firm had been, closed and the Management had started another-manufacturing unit.

4. Keeping in view the fact that the Management had failed to show anything on record that the workman had left of his own; volition and had settled his accounts as also the fact that the establishment had since been closed, the Labour Court came to a conclusion that ends of justice would be met if the workman was compensated adequately for the illegal; termination of his services as well as 50% back wages. The same was quantified as Rs. 1,00,000/- and the Award was passed in those terms.

5. The contention of the Management before the Labour Court in the writ petition was that the respondent/workman never worked for a period of six years as was alleged by the respondent, the reason being that the appellant (original petitioner in the writ petition) had started its business somewhere in May, 1999, therefore, there was no question of their appointing the respondent and employing him w.e.f. 1996. The learned single Judge rightly observed that neither in the evidence of the appellant adduced in the Labour Court nor in the cross-examination of the respondent/workman such a case was set up by the appellant/Management that they had commenced business from 1999. Therefore, the learned single Judge

held that, the appellant/Management could not be permitted to set up a new case at this stage. It is also pertinent to mention here that though in its evidence led before the Labour Court, the appellant/Management had deposed to the factum of full and final settlement on September 10, 2002, however, in the cross-examination of the respondent/workman, no such suggestion was ever put to the respondent/workman to enable him to rebut the said contention/allegation.

6. We find no infirmity in the findings of the learned single Judge to merit any interference. The Labour Court has rightly after taking into consideration all relevant facts and circumstances awarded a compensation amount to the respondent/workman without directing reinstatement. The appeal is accordingly dismissed. All pending application stand disposed of as well.

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