Jagminder Singh Vs. Executive Engineer, F.C.D. and anr.

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Court : Delhi

Decided On : Jul-25-2006

Reported in : 133(2006)DLT256

Judge : Manju Goel, J.

Acts : Income Tax Act, 1961 - Sections 89 and 192

Appeal No. : Writ Petition (Civil) No. 1371/2006

Appellant : Jagminder Singh

Respondent : Executive Engineer, F.C.D. and anr.

Advocate for Def. : Sewa Ram, Adv.

Advocate for Pet/Ap. : Varun Prasad, Adv

Judgement :

Manju Goel, J.

1. The petitioner was a workman with respondent No. 1 and had been terminated with effect from 9.8.1983. He raised an industrial dispute which was decided by award dated 6.5.2004. The award directed the management to reinstate the petitioner with 25% back wages. The petitioner says that the award dated 6.5.2004 was published on 14.6.2004. The petitioner further says that the petitioner has

been paid only 25% back wages and was taken in service only on 9.2.2005. He further submits that he is entitled to full wages from the date of the award till he was actually allowed to join.

2. On behalf of the respondent it is stated that the respondent is required to implement the award within two months of its publication and, thereforee, the respondent was within its right to take the petitioner on duty from 14.8.2004. The petitioner was actually taken on duty on 9.2.2005. It is explained that in the meantime the respondents have been seeking the opinion of the different branches of the Government. This, however, will not dis-entitle the petitioner to get the benefit of the award dated 6.5.2004. The respondent thereforee, cannot withheld the wages of the petitioner from 14.8.2004 till he actually joined, i.e., 9.2.2005. The respondent thereforee, shall make payment of the dues to the petitioner in this regard within two months hereof.

3. The petitioner has also claimed a sum of Rs. 12,000/- which was deducted from his back wages. The respondents have to make these deductions under Section 192 of the Income-tax Act, 1961. It is explained that the income could not be spread over the years for which the back wages related because the respondents could have no information about the income which the petitioner may have earned during these years and what could be the actual amount of income-tax payable by the petitioner. The petitioner has referred to a judgment of the Supreme Court in the case of Ras Behari v. Haryana Agricultural University, Hissar and Ors. : AIR 1987 SC1833 in which in a similar situation the Supreme Court directed that the appellant shall be entitled to relief under Section 89 as the compensation therein awarded included salary which was arrears for 15 years as also the compensation in lieu of reinstatement. The Supreme Court directed that the appellant, if necessary, shall make an application and submit the same to the competent authorities and the Commissioner shall assist the appellant in obtaining the relief. The petitioner accordingly may apply to the appropriate quarters for getting the relief under Section 89 of the Income-tax Act.

4. The petition stand disposed of with the above directions.