

Arjun Kumar Giri Vs. Gnct of Delhi and ors

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Court : Delhi

Decided On : May-11-2011

Judge : Rajiv Sahai Endlaw, J.

Appeal No. : W.P.(C) 3163/2011

Appellant : Arjun Kumar Giri

Respondent : Gnct of Delhi and ors

Advocate for Def. : Mr. L.K. Garg, Adv.

Advocate for Pet/Ap. : Mr. Vivek Singh Attri, Adv.

Judgement :

1. The petitioner claims to have been employed in the year 1996 as a Lab Assistant in the respondent no.3 Birla Vidya Niketan School. He claims to have worked in the respondent no.3 School till the year 1999, when according to him his services were terminated. The petitioner earlier preferred W.P.(C) No.3606/1999 in this Court impugning the said action of the respondent no.3 School. The petitioner continued to pursue the said remedy even after establishment of the Delhi School Tribunal. The writ petition was ultimately disposed of on 22 nd April, 2010 relegating the petitioner to the Tribunal. While doing so, it was expressly observed that the case made out by the petitioner entailed disputed questions of fact and which the Tribunal was better equipped to address.

2. The petitioner thereafter approached the Tribunal which has on 31st January, 2011 now dismissed the appeal of the petitioner against the purported order of the respondent no.3 School of termination of his employment. The Tribunal has held that the petitioner has failed to prove that he was an employee of the respondent no.3 School. The Tribunal believed the respondent no.3 School that the petitioner had been provided by M/s Mansi Enterprises who were on contract with the respondent no.3 School.

3. The petitioner in support of his claim has filed a number of documents which even if were to be believed, at best show the presence of the petitioner in the respondent no.3 School between the years 1996-1999. However as aforesaid even the respondent no.3 School is not denying the presence of the petitioner in the school. The question for adjudication was as to whether the petitioner was an employee of the respondent no.3 School or not.

4. I have carefully perused the order of the Tribunal. It is nowhere recorded that the petitioner had sought any opportunity for leading any evidence by way of examination or cross examination of the witnesses. The petitioner in the memorandum of the writ petition has not stated that he had sought any such opportunity or that the same was denied to him. This is all the more surprising in view of the express observation in the order disposing of the earlier writ petition preferred by the petitioner to the effect that the case made out by the petitioner entails disputed questions of fact.

5. The Tribunal, in the absence of any appointment letter or salary slip with the petitioner held the petitioner to have not established a relationship of employer-employee with the respondent no.3 School. I have also enquired from the counsel for the petitioner whether the respondent no.3 School is issuing appointment letters to others working in the respondent no.3 School. The counsel states that he has no instructions in this regard. Only if the petitioner had sought to cross examine the purported signatories of the documents filed before this Court and which are stated to have been filed before the Tribunal also, could the explanation if any with respect thereto would have been given and could have been weighed by the Tribunal and by this Court.

6. The finding returned by the Tribunal of the petitioner not being an employee of the respondent no.3 School is a finding of fact on the basis of the documents produced before the Tribunal. It is the settled position in law that this Court in exercise of writ jurisdiction would not interfere with the findings of fact of the Tribunal even if erroneous unless any perversity or unreasonableness is shown therein (See (a) Syed Yakoob v. K.S. Radhakrishnan AIR 1964 SC 477; (b) Kirloskar Brothers Ltd. v. The Presiding Officer, Labour Court ILR (1976) 1 Del 565; (c) DTC v. Delhi Administration ILR (1973) 1 Del 838; (d) Jawahar Singh v. Financial Commissioner MANU/DE/8396/2007 & (e) Kishan Chand Bhatia v. UOI MANU/DE/0265/2005). The petitioner without making any efforts to prove his case, cannot be granted any further indulgence. The matter is quite stale now being over 12 years old and for this reason also it is not deemed expedient to grant any fresh opportunity to the petitioner to prove his case.

There is no merit in the petition, the same is dismissed. No order as to costs.

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