

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

W.P.(C.) No. 12346/2009

% **Date of Decision: 13th October, 2009**

M/S INTEG ELECTRONICS PETITIONER

Through: Mr. Raajeev Kapoor, Advocate.

VERSUS

\$ SHRI SUNIL KUMAR & ANOTHER RESPONDENTS

^ Through: NEMO.

CORAM:
Hon'ble MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper may be allowed to see the judgment? **NO**
2. To be referred to the reporter or not? **NO**
3. Whether the judgment should be reported in the Digest? **NO**

S.N.AGGARWAL, J (ORAL)

C.M. No. 12744/2009 in W.P.(C.) No. 12346/2009

Exemption as prayed for filing of certified copies of annexures is granted subject to all just exceptions.

C.M. No. 12742/2009 in W.P.(C.) No. 12346/2009

This is an application filed by the petitioner seeking condonation of delay in re-filing the petition.

Having regard to the averments contained in the instant application and the submissions made by Mr. Rajeev Kapoor, delay in re-filing the petition is condoned.

W.P.(C.) No. 12346/2009 and C.M. Nos. 12745/09 (for time for filing of legible copies and true typed copies of dim annexures) and 12743/2009 (for stay)

The management of M/s Integ Electronics, in this writ petition, seeks to challenge an industrial award dated 02.03.2007 in I.D. No.

408/2005 directing reinstatement of respondent No. 1 workman with 50% back wages.

2. Heard on admission.

3. The respondent workman was employed as a Helper with the petitioner w.e.f. 01.01.2004. His services were terminated by the petitioner w.e.f. 07.07.2005. The respondent aggrieved by his termination raised an industrial dispute, which was referred by the appropriate Government in the Government of NCT of Delhi to the Labour Court for adjudication. The management of the petitioner had contested the claim of the respondent workman for his reinstatement inter alia on the ground that the respondent had worked with the petitioner only for two months from 17.05.2005 to 07.07.2005 and had left the service of his own. The plea of the management before the Labour Court was that the respondent had abandoned the service of the petitioner and that his services were not terminated by the management as alleged by him. This defence taken by the management before the Labour Court was falsified by three important facts discussed in the impugned award.

4. The first is an order of the Competent Authority (Ex. WW-1/8) under the Minimum Wages Act granting wages of Rs. 43,347/- to the respondent workman against the petitioner management for the period from January to June 2005. This order of the Competent Authority under the Minimum Wages Act has attained finality as it was not assailed by the management before any higher Court. The order Ex. WW-1/8 passed by the Competent Authority under the Minimum Wages Act clearly belies the contention of the management that the respondent workman was employed only for two months from 17.05.2005 to 07.07.2005. The document Ex. WW-1/8 implies that the respondent workman was very much in the establishment of the petitioner management at least in

January 2005, if not in January 2004, the date of appointment claimed by the workman.

5. The second fact discussed in the impugned award is the appointment letter Ex. MW-1/3. This document Ex. MW-1/3 was introduced by the petitioner management, for the first time, in its evidence to show that the respondent workman was appointed on 17.05.2005. The appointment letter Ex. MW-1/3 was rightly not believed by the Court below because the said document was not put to the respondent workman in his cross-examination. The respondent workman could not have been taken by surprise by the management by relying on the purported appointment letter Ex. MW-1/3, for the first time, in its evidence.

6. The third fact discussed in the impugned award is the attendance register Ex. MW-1/1. This attendance register Ex. MW-1/1 was for the period from May 2005 to July 2005. The petitioner management deliberately did not produce the attendance register for the period prior to May 2005 as it knew that in case the attendance register for the period prior to May 2005 is produced then it will belie its contention that the respondent workman was employed only on 17.05.2005.

7. On the basis of the above three important facts mentioned in the impugned award, the Court below has rightly reached to a conclusion that the services of the respondent workman were illegally terminated by the management and he has been ordered to be reinstated in service with 50% back wages.

8. In view of the foregoing, I do not find any perversity or illegality in the impugned award that may call for an interference by this Court in exercise of its extraordinary discretionary writ jurisdiction under Article 226 of the Constitution. This writ petition, therefore, fails and is hereby

dismissed in limine.

9. The stay application as well as application seeking time for filing of legible copies and true typed copies of dim annexures, are rendered infructuous and disposed of accordingly.

OCTOBER 13, 2009
'BSR'

S.N.AGGARWAL, J