

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

+ **W.P.(C.) No. 11439/2009**

% **Date of Decision: 08th September, 2009**

M/S BHARAT HOTELS LTD.

..... PETITIONER

! Through: Mr. Lalit Bhasin, Advocate.

VERSUS

\$ UNION OF INDIA AND ANOTHER

.....RESPONDENTS

^ Through: Mr. Ravinder Aggarwal, Advocate.

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)

The management of M/s Bharat Hotels Ltd. (petitioner herein) seeks to challenge an order dated 04.05.2009 passed by the Labour Court on its application to fix the case for final arguments.

2. Mr. Lalit Bhasin, learned counsel appearing on behalf of the petitioner, has drawn attention of this Court to an order dated 16.10.2004 passed by the Labour Court by which the issue relating to validity of the inquiry was struck off as the workman had not questioned the validity of the domestic inquiry held against her. The contention of Mr. Bhasin is that since the workman had not questioned the validity of the domestic inquiry and as the issue relating to fairness of the inquiry was struck off by the Court on 16.10.2004, there was no need for fixing the case for evidence by the Labour Court.

3. I do not agree with the submission made on behalf of the petitioner.

The Labour Court in its impugned order has clarified that the parties have been asked to produce their evidence on Issue No. 2 which pertained to the terms of reference. Since the workman did not dispute the fairness or legality of the domestic inquiry, the Court below need not go into the question relating to fairness of the inquiry. The evidence that was required to be produced by the parties was only on the question of quantum of punishment. The issue relating to fairness of the inquiry was struck off way back on 16.10.2004, cannot be re-opened and this position has been made clear by the Labour Court in its impugned order. For that reason, I do not find any perversity in the impugned order that may call for an interference by this Court in exercise of its extraordinary discretionary writ jurisdiction under Article 226 of the Constitution of India. Needless to say that both the parties to the industrial dispute will be entitled to challenge the final award on all such grounds as may be available to them in law.

In view of the above, this writ petition along with stay application, is dismissed in limine.

September 08, 2009
'bsr'

S.N.AGGARWAL, J