

* **HIGH COURT OF DELHI : NEW DELHI**

+ **W.P.(C) No. 6225/2008**

% Pronounced on: 06.07.2010

PRAVEEN KUMAR @ AMAR PAL ...Petitioner
Through: Mr. Pankaj Aggarwal, Adv. with
petitioner in person.

Versus

AMAR DEV CHAUHAN & ANOTHER Respondents
Through: None for respondent no.1.
Ms. Mamta Tandon, proxy counsel
for Mr. V.K. Tandon, Adv. for
respondent no.2.

Coram:

HON'BLE MR. JUSTICE MANMOHAN SINGH

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

MANMOHAN SINGH, J.

1. The petitioner has filed the present writ petition seeking direction for quashing the impugned notices dated 03.06.2008 and 01.07.2008 and also seeking a direction to the respondent no.2 i.e. Labour Department, not to initiate/effect any recovery on the basis of the Award dated 19.08.2004 passed by the Labour Court in I.D. No. 307/2004.

2. The brief facts are that the respondent no.1/workman had been working with M/s. Arya Oilseal Enterprises, Plot No. 146, Jain Nagar, Karala Road, Delhi-110081 on the post Mistri w.e.f. 18.05.1997 and his last drawn salary was Rs. 2000/- per month.

3. The case of the workman is that when he demanded various statutory benefits such as appointment letter, wages on register, earned leave etc., the management got annoyed and without issuance of prior notice or charge sheet or assigning any reason, terminated his services on 18.07.1998.

4. He went to the Management seeking to be placed back at his duties but despite various visits, the Management refused to reinstate him. Thereafter he issued a notice to the Management dated 29.07.1998 by registered post. The Management did not reply to the same nor he was reinstated nor were any wages paid to him.

5. The workman filed a claim before the Conciliation Officer. The conciliation proceedings resulted in failure due to the adamant attitude of the Management. Left with no other option, the workman initiated action against the Management for violation of the provisions of Section 25 (F)(G) of the Industrial Disputes Act, 1947 and industrial dispute between the Management i.e. Arya Oilseal Enterprises, Plot No. 146, Jain Nagar and the workman/Sh. Amar Dev Chauhan was referred for adjudication vide reference no. F.24 (1017)/99-Lab/99-Lab/13204-8 dated 19.03.1999.

6. Notice was issued to the Management for appearance. On 05.06.2002, despite service of the notice, no one appeared on behalf of the Management and the Management was proceeded against ex-parte.

7. The statement of the workman was recorded in court as WW1 and his affidavit was also proved as WW1/A and A1. The copy of the demand notice dated 29.07.1998 sent to the Management by registered post has been proved as exhibit WW1/2. Postal receipt has been proved as WW1/1. Copy of claim filed before the Conciliation Officer has been proved as Ex. WW1/3, copy of complaint dated 20.07.1998 filed before the Asstt. Labour Commissioner has been proved as Ex. WW1/4.

8. The award was passed on 19.08.2004 and relief was granted to the respondent no.1 herein to the extent that he was held entitled to reinstatement and also for back wages at the rate of 50% of the last wage drawn w.e.f. 18.07.1998 onwards till his reinstatement.

9. Two notices dated 03.06.2008 and 01.07.2008 were issued by the Government of National Capital Territory of Delhi, Labour Department: Implementation Cell, 5 Sham Nath Marg, Delhi for reinstatement as well as recovery of back wages amounting to Rs. 81,133/- were issued.

10. Challenging the said notices Mr. Praveen Kumar who claim himself to be Praveen Kumar @ Amar Pal filed the present writ petition.

11. The main contention of the petitioner is that he has no concern with M/s. Arya Oilseal Enterprises nor did he have anything to do with the said industrial dispute and the said notices have been served upon him are totally illegal, unjustified, contrary to the settled principles of law and natural justice and liable to be

quashed. His submission is that the said notices ought to have been issued against M/s. Arya Oilseal Enterprises and not against the petitioner. The respondent no.2, therefore, erred in sending the impugned notices to the petitioner at his residential address ie. Plot No. 145, Jain Nagar, Karala Road, Delhi – 110081 whereas the address of M/s. Arya Oilseal Enterprises as mentioned in the award is 146, Jain Nagar, Karala Road, Delhi – 110081.

12. In the affidavit filed in support of the writ petition, the name of the petitioner is mentioned as Praveen Kumar @ Amar Pal S/o. Sh. Munni Lal. Along with the writ petition he has also filed some documents of educational qualification in order to show the age of the petitioner and the name of the father of the petitioner as Munni Lal.

13. The respondent no.1/workman has filed the counter affidavit and briefly stated that he got employed by the Management M/s. Arya Oilseal Enterprises at 655/3-A Punjabi Basti, Gali No.4, Anand Parvat Colony, Delhi on 18.05.1997 which was later on shifted in Plot No. 145-146, Jain Nagar, Karala Road, Delhi.

14. According to him, the Management i.e. M/s. Arya Oilseal Enterprises had both the plots and now the petitioner is showing only Plot No. 145 in order to deceive the respondent no.1 and mislead this court. His further submission is that the name of the employer of the Management is/was Munni Lal @ Amar Pal. The petitioner herein Praveen Kumar is intentionally stating his name as Praveen Kumar @ Amar Pal. Earlier he had never referred to or stated his name with the alias Amar Pal. In support of his contention some documents are placed on record.

15. I have heard learned counsel for the parties. I have perused the award passed by the Labour Court dated 19.08.2004. It is an undisputed fact that an industrial dispute was raised between the Management/M/s. Arya Oilseal Enterprises and the respondent no.1. It is a matter of fact that despite service of impugned notices referred above, no one appeared on behalf of the Management and it was proceeded against ex-parte. It appears from the record that Sh. Munni Lal is/was the proprietor of the said firm. His name is mentioned as Munni Lal @ Amar Pal or Amar Pal @ Munni Lal in various documents placed on record by the respondent no.1. The award has been passed against the firm M/s. Arya Oilseal Enterprises. The petitioner Praveen Kumar is the son of Mr. Munni Lal. His school certificate shows his name as Praveen Kumar. No cogent evidence has been produced by him to prove that he is known as Praveen Kumar @ Amar Pal. The implementation notices dated 03.06.2008 and 01.07.2008 are admittedly issued to Amar Pal @ Munni Lal and in the name of the firm at both the addresses i.e. Plot No. 145 and 146.

16. It is pertinent to mention that nowhere the name of the petitioner Praveen Kumar is mentioned in the implementation notices nor is it the case of the petitioner before this court that he was involved in the industrial dispute with the respondent no.1. His case is that the said notices were served at the wrong place, hence the present writ petition is filed. He has not denied the fact that his father Mr. Munni Lal was the proprietor of the said firm. He has also not denied the fact that his father Munni Lal and his firm has/had never carried out its business from the Plot No. 145.

One fails to understand as to how the present writ petition filed by Praveen Kumar is maintainable as he has nothing to do with the industrial dispute on the subject matter. The two impugned notices dated 03.06.2008 and 01.07.2008 had not been issued in the name of the Praveen Kumar nor has the petitioner Praveen Kumar given any justification for filing the writ petition against the award which was passed on the basis of industrial dispute between the respondent no.1 and M/s. Arya Oilseal Enterprises. Further, the award was passed on 19.08.2004 and writ petition was filed on 23.08.2008 i.e. more than four years after the passing of the award. No application for condonation of delay was filed by the petitioner.

17. The petition is totally misconceived, false and frivolous and is not maintainable and the same is hereby dismissed with cost of Rs. 10,000/-. However, it is made clear that the respondents are entitled to strict enforcement of the award passed against the management or against its partners/proprietor.

MANMOHAN SINGH, J.

JULY 06, 2010
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