

IN THE HIGH COURT OF DELHI AT NEW DELHI

WRIT PETITION (C) No.6695/2010

Date of pronouncement :October 18, 2010

M/S GOPAL PAPERS PVT. LTD. & ORS. Petitioners
Through : Mr. Pradeep Kumar Arya, Advocate.

Versus

BABU RAM & ANR. Respondents
Through: None.

CORAM :

HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

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

SUDERSHAN KUMAR MISRA, J. (ORAL)

1. The only limited point that has been raised by counsel for the petitioner in this matter is that the affidavit by way of evidence which was filed by the workman before the Labour court states, inter alia, that, "...my statement of claim be treated as statement of chief in the present matter pending before the court and same is not have against repeated for the sake of brevity. I further reiterated my statement of claim...", does not constitute sufficient evidence by way of examination-in-chief, and therefore, there was no obligation on the part of the management/petitioner herein to prove anything.

2. I do not agree. Admittedly, all relevant particulars that were not specifically mentioned in the affidavit by the workman were there in his

statement of claim. Sufficient opportunity was granted to the petitioner/management to cross examine the workman on all aspects of his claim, which he had approbated by way of the aforesaid affidavit. Also, before the Tribunal, no objection was raised by the petitioner to the inclusion of the aforesaid statement of the respondent/workman in his aforesaid affidavit by way of examination-in-chief. Counsel for the petitioner further admits candidly that, in fact, the petitioner, who was the respondent before the Labour Court, did extensively cross examine the workman on all the relevant aspects as mentioned by him in his statement of claim. No precedent has been cited by counsel for the petitioner in support of his contention. No other ground has been raised.

3. In **Jijar Singh v. Mohinder Kaur**, Vol.16, (1979) DLT 146, a Division Bench of this Court allowed the incorporation by reference of an application for leave to defend an eviction petition under the Delhi Rent Control, 1958 in the accompanying affidavit, observing therein that while a self-contained affidavit may have been desirable, "...the failure to reach this desirable practice will not result in non-compliance with the law...".

4. Also, in **Union of India v. T.R. Varma**, AIR 1957 SC 882, the Supreme Court held in paragraph 14 thereof that:

"14. Now, it is no doubt true that the evidence of the respondent and his witnesses was not taken in the mode prescribed in the Evidence Act; but that Act has no application to enquiries conducted by tribunals, even though they may be judicial in character. The law requires that such tribunals should observe rules of natural justice in the conduct of the enquiry, and if they do so, their decision is not liable to be impeached on the ground that the procedure followed was not in accordance with that, which obtains in a Court of Law. Stating it broadly and without intending it to be exhaustive, it may be observed that rules of natural justice require that a party

should have the opportunity of adducing all relevant evidence on which he relies, that the evidence of the opponent should be taken in his presence, and that he should be given the opportunity of cross-examining the witnesses examined by that party, and that no materials should be relied on against him without his being given an opportunity of explaining them. If these rules are satisfied, the enquiry is not open to attack on the ground that the procedure laid down in the Evidence Act for taking evidence was not strictly followed....”

5. Under the circumstances, to my mind, the workman’s examination-in-chief before the Tribunal cannot be impeached on the ground urged. This petition is, therefore, dismissed in limine.

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Since the main petition has been dismissed, this application does not survive and the same is also dismissed.

SUDERSHAN KUMAR MISRA, J.

**OCTOBER 18, 2010
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