

\$~9 to 13

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

+ **LPA 612/2015**

MUKESH GUPTA Appellant

Represented by: Mr.K.Sunil, Advocate

versus

RAJ KUMAR & ORS Respondents

Represented by: None

LPA 613/2015

MUKESH GUPTA Appellant

Represented by: Mr.K.Sunil, Advocate

versus

TOOFANI SAROJ & ORS Respondents

Represented by: None

LPA 615/2015

MUKESH GUPTA Appellant

Represented by: Mr.K.Sunil, Advocate

versus

SHYAM LAL & ORS Respondents

Represented by: None

LPA 616/2015

MUKESH GUPTA Appellant

Represented by: Mr.K.Sunil, Advocate

versus

2

PANDU RAM & ORS

..... Respondents

Represented by: None

LPA 617/2015

MUKESH GUPTA

..... Appellant

Represented by: Mr.K.Sunil, Advocate

versus

ACHHE LAL & ORS

..... Respondents

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

%

10.09.2015

CM No.19034/2015 in LPA No.612/2015

CM No.19077/2015 in LPA No.613/2015

CM No.19099/2015 in LPA No.615/2015

CM No.19105/2015 in LPA No.616/2015

CM No.19107/2015 in LPA No.617/2015

Allowed subject to jus exceptions.

LPA Nos.612/2015, 613/2015, 615/2015, 616/2015 & 617/2015

1. The award in each case is in favour of the workman. The term of reference was "*Whether the service of the workman has been terminated illegally and/or justifiably by the management and if so, to what relief is the workman entitled to*".

2. All the workmen claimed to be the employees of the appellant. The record of the learned Labour Court would evince that after the pleadings were pleaded and stage reached for evidence to be led, in each reference the

workman examined himself and proved various documents. In his affidavit by way of examination-in-chief the workman deposed on oath that he was the employee of Mukesh Gupta Transport Company. Said testimony on oath was not even challenged because the representative of the management stopped appearing. The management did not lead any evidence in rebuttal.

3. The award directs reinstatement with 50% back wages.

4. The management has filed a writ petition laying a challenge to the award(s) in which it is not denied that the workman used to work at the railway siding but it is pleaded that the workman was being paid wages for the work done. In other words what is sought to be pleaded in the writ petition is that as and when railway wagons carrying cement used to be stationed at the railway siding for the purposes of unloading the wagons labour used to be employed and payment used to be made to the labour for each bag of cement unloaded. Suffice it to state that this aspect of the deployment of labour was not proved by the management by leading any evidence before the Labour Court.

5. Issue arises concerning impugned order whether the learned Single Judge was justified in allowing the application filed by the workman under Section 17-B. The impugned order would reveal that a correct principle of law has been applied by the learned Single Judge, being that, if it was prima facie evident that there was no employer-employee relationship the relief to a workman could be denied under Section 17-B of the ID Act. But, this would have to be on a very cursory reading of the evidence for the reason if from a cursory reading of the evidence it dawns ex-facie that the employer-employee relationship was not proved, wages as contemplated by Section 17-B of the ID Act could be denied.

4

6. In view of the facts herein noted above it is not in dispute that the management did not even challenge the testimony of the workman on oath that he was employed by the management coupled by the fact that the management led no evidence in rebuttal, we concur with the view taken by the learned Single Judge that relief to the workman have to be granted under Section 17-B of the ID Act.

7. Appeals are dismissed in limine with the usual caveat. Nothing expressed in this order shall be construed as an expression on the merits of the cases.

8. No costs.

CM No.19033/2015 in LPA No.612/2015

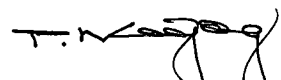
CM No.19076/2015 in LPA No.613/2015

CM No.19098/2015 in LPA No.615/2015

CM No.19104/2015 in LPA No.616/2015

CM No.19106/2015 in LPA No.617/2015

Dismissed as infructuous.


PRADEEP NANDRAJOG, J.


MUKTA GUPTA, J.

SEPTEMBER 10, 2015

mamta