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

% *Date of Decision : February 03, 2015*

+ **LPA 54/2015**

M. VADIVELU Appellant
Represented by: Mr.Vinay Sabharwal, Advocate

versus

RAJKISHAN & CO. & ORS. Respondents
Represented by: Mr.S.K.Taneja, Sr.Advocate
instructed by Mr.Puneet Taneja and
Mr.Kopal Shrivastava, Advocates for
R-2
Mr.Gursharan Singh, Advocate for R-
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CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (Oral)

CM No.1879/2015

Allowed subject to just exceptions.

CM No.1878/2015 & CM No.1880/2015

For the reasons stated in the applications the delay of 56 days in filing
and the delay of 62 days in re-filing the appeal is condoned.

The applications are disposed of.

LPA No.54/2015

1. Challenge is to the order dated August 25, 2014 passed by the learned Single Judge dismissing W.P.(C) No.336/2008 and upholding the order dated April 11, 2007 passed by the Labour Court in LCA No.49/2006.
2. Vide order dated April 11, 2007, the Labour Court had dismissed an application filed by the appellant under Section 33(c)(2) of the ID Act, 1947 in which the appellant claimed arrears of salary and allowances from February, 1993 till 1998.
3. The learned Labour Court has noted that the appellant was appointed as a Quality Surveyor on October 20, 1981 and was promoted to the post of Senior Supervisor under NTPC, a Government of India Enterprises.
4. NTPC had awarded a contract for general civil works for its coal handling plant at its project site in Dadri District, Ghaziabad to Raj Kishan & Co. The appellant was posted at the establishment of Raj Kishan & Co. to supervise the project. In March, 1993 the appellant was transferred to the NTPC Thermal Plant at Ropar in the State of Punjab. He did not join duties.
5. The appellant sat home till his date of superannuation reached in the year 1998. He started claiming wages. In the year 1996 he filed the application under Section 33(c)(2) of the ID Act, 1947 before the Labour Court.
6. The stand of NTPC before the Labour Court that the appellant was not a workman. It was pleaded that the appellant failed to report for duties in Ropar in February, 1993. Jurisdiction of the Labour Court at Delhi was contested.
7. The Labour Court held that since the status of the appellant as a workman was disputed it had no jurisdiction under Section 33(c)(2) of the ID Act, 1947 to adjudicate the claim for wages. The Labour Court

additionally held that no cause of action had arisen in Delhi and thus the Labour Court did not have the necessary territorial jurisdiction.

8. With reference the decisions reported as 1978 (2) SCC 144 Puja Papers Pvt. Ltd. Vs. Suresh Chand, 1995(1) SCC 235 MCD Vs. Ganesh Rajak & Anr., 1998 (8) SCC 671 Tara & Ors. Vs. Director Social Welfare & Ors., 80 (1999) DLT 498 B.B.Verma Vs. NPCC, 84 (2000) DLT 706 Jeet Lal Sharma Vs. PO Labour Court, 2001 (1) SCC 73 State Bank of India Vs. Ram Chandra Dubey, 2005 (8) SCC 58 State of UP Vs. Brij Pal Singh and 165 (2009) DLT 12 Bageshwar Maurya Vs. Management Naveen Project Pvt. Ltd., the learned Single Judge has rightly concluded that if the status of a claimant before the Labour Court under proceedings relating to Section 33(c)(2) of the ID Act, 1947 being a workman or not arises for consideration the Labour Court would not be competent to proceed under said Section. Remedy of the claimant would be to seek a reference of the dispute to an Industrial Fora under the ID Act, 1947 by approaching the Appropriate Government and seeking reference of the dispute for adjudication.

9. We also concur with the view taken by the learned Single Judge that since no cause of action accrued at Delhi the Labour Court at Delhi did not have territorial jurisdiction and that the territorial jurisdiction could not be rested on the plea that the head office of NTPC was at Delhi.

10. The learned Single Judge has noted that the decision in Bageshwar Maurya's case (supra) was distinguishable for the reason the appellant had not alleged in the pleadings nor had he filed the appointment letter which alone would show the place wherefrom it was sent.

11. We dismiss the appeal in limine.

12. No costs.

CM No.1877/2015

Dismissed as infructuous.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

FEBRUARY 03, 2015
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