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

Date of Decision: 29th October, 2015

+ (i) **W.P.(C) 8651/2015 & C.M.18909/2015**

VED PRAKASH DUBEY Petitioner
Through: Mr. Syed Sajjad Ali and Mr. Ritesh
Kumar Tiwari, Advocates
versus

M/S MAHESHWARI GAS SERVICE Respondent
Through: Mr. Pradhuman Gautam and Mr.
Saumitra Singhal, Advocates

+ (ii) **W.P.(C) 8652/2015 & C.M.18912/2015**

JAI PRAKASH DUBEY Petitioner
Through: Mr. Syed Sajjad Ali and Mr. Ritesh
Kumar Tiwari, Advocates
versus

M/S MAHESHWARI GAS SERVICE Respondent
Through: Mr. Pradhuman Gautam and Mr.
Saumitra Singhal, Advocates

+ (iii) **W.P.(C) 8655/2015 & C.M.18916/2015**

RAM BACHAN SONI Petitioner
Through: Mr. Syed Sajjad Ali and Mr. Ritesh
Kumar Tiwari, Advocates
versus

M/S MAHESHWARI GAS SERVICE Respondent
Through: Mr. Pradhuman Gautam and Mr.
Saumitra Singhal, Advocates

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
% **(ORAL)**

In the above captioned three petitions, challenge is to the impugned order of 13th January, 2015 vide which the concerned Labour Court has permitted respondent-Management to be represented by a counsel while noting that there was an implied consent of petitioners to respondent-Management being represented by a counsel. It is also noted in the impugned order that respondent's counsel has appeared on 11 dates and had got the entire evidence of respondent-Management recorded.

Since the impugned order is being assailed in above-captioned three petitions on identical grounds, therefore, with the consent of learned counsel for the parties, they were heard together and by this common order, these petitions are being disposed of.

At the hearing, learned counsel for petitioners had placed reliance upon decision of a Coordinate Bench of this Court in *Prasar Bharti Broadcasting Corporation of India Vs. Shri Suraj Pal Sharma & Anr.* 1999 LLR 352 to submit when no formal leave was sought from the Court/Tribunal, then the Management cannot be permitted to be represented by a legal practitioner. Reliance was also placed by learned counsel for petitioners upon decisions of Apex Court in *N.K. Bajpai v. Union of India and Anr.* AIR 2012 SC 1310 and *Paradip Port Trust, Paradip v. Their Workman* AIR 1977 SC 36.

It was vehemently submitted on behalf of petitioners that there was

no implied consent given by petitioners and so, in view of above-referred decisions, the impugned order deserves to be quashed.

To oppose these petitions, learned counsel for respondent had relied upon another decision of a co-ordinate Bench of this Court in *Samarendra Das v. Win Medicare Pvt. Ltd.* 2014 LawSuit (Del) 609 to submit that there was no objection from petitioners on 11 dates of hearing when the evidence of respondent-Management was recorded and the implied consent once given, cannot be revoked later. Thus, it was submitted that the impugned order does not suffer from any infirmity and so, these petitions ought to be dismissed.

Upon hearing and on perusal of the impugned order, material on record and the decisions cited, I find that when there was no opposition from petitioners on 11 dates of hearing, then implied consent of petitioners to respondent-Management being represented by a legal practitioner, has been rightly inferred by the trial court.

In *Samendra Das (supra)*, while relying upon a Division Bench decision in L.P.A No.212/2008 titled *Bhagat Brothers v. Paras Nath Upadhyay* rendered on 13th August, 2008, it has been categorically held that consent can be implied and once consent has been given, it cannot be revoked at a later stage because there is no provision in the *Industrial Disputes Act* enabling such withdrawal or revocation.

In view of Division Bench's decision of this Court in *Bhagat Brothers (supra)*, reliance placed by learned counsel for petitioners upon decision of Single Bench in *Prasad Bharti (supra)* is of no avail. The decision in *N.K. Bajpai (supra)* has no application to the facts of the instant case. Although the proposition of law as reiterated in *Paradip Port*

(*supra*) cannot be disputed, but it has no application to the facts of instant case.

Applying the dictum of Division Bench in *Bhagat Brothers (supra)*, it is held that the implied consent given by petitioners to respondent-Management being represented by counsel, cannot be withdrawn at the fag end of the proceedings when petitioners are to be cross-examined before the trial court. Thus, finding no illegality or irrationality in the impugned order, the above captioned three petitions are dismissed while leaving the parties to bear their own costs.

These petitions and the applications are accordingly disposed of.

(SUNIL GAUR)
JUDGE

OCTOBER 29, 2015

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