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

Date of Decision: September 23 , 2015

+ W.P.(C) 9162/2015 & C.M.No. 20888/2015

SURESH BABU

..... Petitioner

Through: Mr. Rajat Sharma, Advocate

versus

M/S CONSUL CONSOLIDATED PVT. LTD. Respondent

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

(ORAL)

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Petitioner was *Senior Commercial Executive* with respondent, who had sought reference of an industrial dispute alleging that termination of his services was in violation of Section 25 of *The Industrial Disputes Act, 1947*. Trial court vide impugned order of 7th January, 2015 had framed the issue regarding petitioner being a '*workman*' or not and the said issue is decided against petitioner holding that petitioner is not a '*workman*' and petitioner's claim petition has been dismissed being not maintainable.

The challenge to the impugned order is on the ground that the designation of a '*workman*' is not important and it has to be seen what is the nature of work, which is performed by the '*workman*'. It is submitted that respondent-Management had not produced any evidence to show that petitioner was doing any managerial work. Attention of this Court was

drawn to cross-examination of management's witness (MW-1) to point out that respondent-Management had not given any authority in writing to petitioner- '*workman*' to accept the leave applications of the employees. It was pointed out that it has come in the evidence of MW-2 that the attendance register was being kept by the Accountant and the intimation of being on leave or coming late was given by the '*workman*' to the Accountant. Thus, it was submitted that there is no evidence on record to show that petitioner was performing any work of managerial nature. Lastly it was submitted that impugned order is bad in law and deserves to be set aside.

Upon hearing and on perusal of the impugned order, deposition of MW-1 & MW-2 and the material on record, I find that petitioner was not accepting leave application of the '*workman*' but he was doing supervisory work, as it has come in the evidence that petitioner was performing work of *Senior Commercial Executive* and three-four persons were under his supervision. In this regard, evidence of MW-2 is on record. The appointment letter (*Annexure P-2*) of petitioner reveals that he was appointed by the Director Marketing of the respondent and was doing work of *Commercial Executive* and was drawing salary of ₹14,650/- in December, 2010.

Sub-Section S (iv) of Section 2 of *The Industrial Disputes Act, 1947* stipulates that an employee, who is performing supervisory work and is drawing salary of more than ₹10,000/- per month, would not come within the definition of '*workman*'.

Considering the appointment letter (*Annexure P-2*) and the evidence on record, I find that petitioner was certainly performing

supervisory work and was earning salary of more than ₹10,000/- per month and so, petitioner does not come within the definition of ‘*workman*’.

In the light of aforesaid, this Court finds no illegality or infirmity in the impugned order.

This petition and application are accordingly dismissed.

(SUNIL GAUR)
JUDGE

September 23, 2015

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