

I-16

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

Date of Decision: November 24, 2015

+ W.P.(C) 10887/2015

HIRA LAL & ORS.

..... Petitioners

Through: Mr. Sudhir Kumar Ojha, Advocate

versus

M/S. AHLCON PUBLIC SCHOOL

..... Respondent

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

(ORAL)

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Petitioners along with three other persons had challenged the termination of their services by raising an industrial dispute, which stands answered vide impugned Award of 16th July, 2015 (*Annexure-A*). The impugned Award directs payment of lump-sum compensation ranging from ₹1,20,000/- to ₹1,50,000/- to other three persons while noting that they have produced the cheques to show that they were paid wages by way of cheques and the issuance of these cheques was admitted by respondent.

At the hearing, learned counsel for petitioners assailed the impugned Award by submitting that respondent-School had sought to get the Contractor- *Mr. B. S. Bora* examined to prove the contract with *M/S Pearl Organization India* regarding the contract of supply of staff for

cleaning purpose etc but respondent-School had failed to get the said witness examined and in such a situation, petitioners claim ought not to have been dismissed by the trial court. It was pointed out by learned counsel for petitioners that it has come in the evidence of *Mr. P. K. Bhatnagar (MW-1)* that in the Agreement of 20th December, 2001 (*Ex. MW 1/3*) it is nowhere mentioned that the said Agreement was in respect of supply of drivers to the respondent-School. It was also pointed out that six of the petitioners were drivers and other petitioners were working on different posts for the purpose of cleaning etc.

Learned counsel for petitioners submitted that petitioners were infact employees of respondent-School and they have been illegally treated differently and petitioners ought to have been treated at par with similarly situated persons, who have been granted relief in the impugned Award by the trial court. Thus, quashing of the impugned order is sought in this petition.

Upon hearing and perusal of impugned Award and the material on record, I find that the plea of discrimination cannot be raised by petitioners because the other three persons, to whom compensation has been granted, had produced the cheques to show that they were paid wages by way of cheques and the issuance of such cheques was admitted by respondent-Management whereas in the case of petitioners, there is no Muster Roll or any other proof to show that petitioners were employees of respondent-School. Merely because there is a reference in the Communication of 12th November, 1997 (*Annexure -I*) that one of the petitioners- *Hazari Lal* was posted as Driver with the respondent-School, would not be of any consequence for the reason that it has come in the

evidence of respondent's witness *P.K.Bhatnagar (MW-1)* that it was valid for six months and Agreement of 1st November, 2002 (*Annexure MW 1/5*) relates to hiring of other staff including drivers etc. So, reliance placed upon Agreement of 20th December, 2001 (*Ex.MW 1/3*) to show that it related to employment of staff for cleaning purpose only and Drivers were not hired vide this Agreement is of no avail.

Regarding non-production of Contractor is concerned, it is evident from trial court's order sheet of 19th July, 2014 that the Contractor- *Mr. B.S. Bora* was unserved with the report that *he was not residing at the given address*. In such a situation, non-examination of the said Contractor is immaterial.

In the facts and circumstances of this case and from the evidence on record, it appears that petitioners were working in respondent-School on contractual basis and so they cannot claim parity with other three persons who have been granted compensation vide impugned order. In the considered opinion of this Court, impugned Award does not suffer from any procedural irregularity or irrationality. Thus, finding no substance in this petition, it is dismissed *in limine*.

(SUNIL GAUR)
JUDGE

NOVEMBER 24, 2015

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