

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

% *Date of decision: 10th August, 2016*

+ W.P.(C) 2310/2002

RAJESH LOOMBA Petitioner
Through: Mr. Satender Verma, Adv.

versus

AMARJEET & ORS. Respondents
Through: Ms. Monica Kapoor, Adv. for R-1.

**CORAM:-
HON'BLE MR JUSTICE V. KAMESWAR RAO**

JUDGMENT

V. KAMESWAR RAO, J. (ORAL)

1. The challenge in this writ petition is, to the notice dated November 27, 2001 issued by the Assistant Labour Officer, Implementation Branch calling upon the petitioner to appear before him and to explain as to why the Award of the Labour Court dated February 1, 2000 be not implemented. Admittedly, the petitioner has not challenged the Award dated February 1, 2000, wherein the Industrial Adjudicator has directed reinstatement of the respondent No.1 with continuity of service and 60% back wages.

2. The learned counsel for the petitioner would submit that the petitioner has paid an amount of Rs.1,08,023/- to the respondent No.1 in

the month of June, 2001. The said amount is for implementing the Award dated February 1, 2000. It is noted that as the petitioner had not reinstated the respondent No.1, the respondent No.1 has sought the recovery of Rs.46,061/- as wages for the period beyond February 1, 2000. It is conceded by the learned counsel for the respondent No.1 that the respondent No.1 has taken a different job elsewhere in the year 2004. It is also conceded by the learned counsel for the parties that the matter was referred to Delhi High Court Mediation & Conciliation Centre, wherein the petitioner had agreed to pay an amount of Rs.50,000/- to the respondent No.1, which was not acceptable to the respondent No.1. He was agreeable to settle the matter for Rs.1 lakh.

3. During the submissions, an issue arose whether the proprietorship concern namely Eco Tours has been closed down. This aspect has been contested by the learned counsel for the respondent No.1 by relying upon certain yearly calendars got printed by the petitioner in the name of Eco Rent A Car whose address is the same as that of Eco Tours i.e A-264, Defence Colony, New Delhi. Learned counsel for the petitioner would submit that the aspect of closure has attained finality in an Award dated February 26, 2003 rendered by the Industrial Adjudicator in a different industrial dispute, which is a subject-matter of a different writ petition in

this Court. In this regard, he has drawn my attention to page 118 of the paper-book, wherein the issue “*Whether the Management has closed the establishment with effect from June 3, 2000 in accordance with law, if so its effect*”, has been decided in favour of M/s Eco Tours. If that be so, the respondent No.1 could not have been taken on duty pursuant to Award dated February 1, 2000. The plea of the learned counsel for the respondent No.1 is that, as the respondent No.1 got employment only in 2004, till that time the respondent No.1 is entitled to wages.

4. Having heard the learned counsel for the parties, there is no dispute that in terms of the Award dated February 26, 2003, it has been concluded by the Industrial Adjudicator that the Eco Tours has been closed. The plea that the Eco Tours was functioning thereafter, by relying upon the calendars issued, may not be correct as Eco Rent A Car of which the calendars were published was represented as a division of ET TRAV-AIDES Pvt. Ltd. a separate entity. That apart, the conclusion of the Industrial Adjudicator in the Award dated February 26, 2003 still holds the field till such time, it is over ruled. It must be held that the Eco Tours having been closed, of which the respondent No.1 was an employee, he could not have been reinstated. That apart, it is also conceded that in 2004, the respondent No.1 got a new employment.

5. Having noted the fact that the petitioner had offered an amount of Rs.50,000/- to the respondent No.1, during the mediation proceedings, which has not been accepted by the respondent No.1, appears to be unreasonable. The respondent No.1, on the strength of the Award dated February 1, 2000, which directed his reinstatement and the fact that the Eco Tours has been closed, is eligible for compensation for not being reinstated. There is no dispute, he already got 60% of back wages granted by the Industrial Adjudicator. Since, petitioner had offered Rs.50,000/- when the matter was pending before the Delhi High Court Mediation & Conciliation Centre, which I note from the order sheets was in the year 2015, this Court is of the view, the parties are in litigation since 1990 when the respondent No.1 said to have been terminated. In the fitness of things, to put quitness to the matter, the petitioner is directed to pay an amount of Rs.55,000/- (Rs. Fifty Five Thousand) to the respondent No.1 as compensation. This would result in setting aside the Notice dated November 27, 2001 issued by the respondent No.3. Ordered accordingly.

6. The writ petition is disposed of on the above terms.

AUGUST 10, 2016
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V. KAMESWAR RAO, J