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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4779/2016, CM Nos.19937-19938/2016**
M/S IMANULLAH & CO.

..... Petitioner

Through: Mr. Alok Singh, Adv. with Mr. S.N.
Sharma (AR)

versus

PANKAJ MEHTA & ANR

..... Respondent

Through:

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

ORDER

% **12.07.2016**

CM No.19938/2016

This is an application seeking condonation of delay of 120 days in filing the writ petition. Learned counsel for the petitioner states, it is not 120 days but only 16 days delay in filing the same. Be that as it may, since the limitation is not applicable, only delay and laches need to be seen, I note that the challenge is to Award dated February 1, 2016 and the writ petition has been filed on May 17, 2016; there is no delay. Accordingly, the application is disposed of.

W.P.(C) 4779/2016

1. This is a writ petition challenging the Award dated February 1, 2016,

Whereby the Tribunal, on a reference made to it under Section 10(1)(c) and 12(5) of the Industrial Disputes Act, to the extent whether services of Sh. Pankaj Mehta, S/o Sh. Tilak Raj Mehta and Pradeep Kumar, S/o Sh. Shiv Singh have been illegally and/or unjustifiably terminated by the Management and if yes, to what relief, are they entitled to, by holding the termination to be illegal and unjustified, has directed payment of Rs.1,40,000/- to each of the workmen/respondents.

2. It is the submission of the learned counsel for the petitioner that both the workmen respondents 1 and 2 herein have in their evidence stated that the wages were being paid by the Bureau of Indian Standards and as such, they were not the employees of the petitioner. I am unable to agree with this submission, in view of the case set up by the petitioner before the Tribunal and which has been recorded by the Tribunal at page 10 of the paper-book, which I reproduce as under:-

“As regards wages, case of the management is that the claimants were paid at the rate of minimum wages, in presence of the officials of Bureau of Indian Standards.”

3. That apart, I note from the document at page 20A, filed by the petitioner, is a letter dated May 14, 2010, whereby the Bureau of Indian Standards has given an annual contract for house-keeping to the petitioner

for the period June 1, 2010 to May 31, 2011. The said letter also stipulates a condition that the firm should deploy its own employees and must not deploy any employee of the previous contractors, who have worked there. Suffice to state, that this condition, apart from other terms of the contract, would indicate that the respondents 1 and 2 were engaged by the petitioner.

4. That apart, the learned counsel for the petitioner cannot rely upon a statement made by the respondents 1 and 2, more particularly, in the absence of Bureau of Indian Standards being a party before the Tribunal. Nothing precluded the petitioner herein, to seek impleadment of Bureau of Indian Standards and prove its case as now being contended by the learned counsel for the petitioner. Further, the case, as set up by the respondents 1 and 2 has not been contested by the petitioner, as no cross examination was effected. Even the evidence of the petitioner was closed by the Tribunal, which has not been challenged by the petitioner in appropriate proceedings. The reference culminated in the impugned Award, whereby the Tribunal has granted compensation to the workmen for Rs.1,40,000/- with 9% interest from the date of publication till its realization. Such an Award cannot be interfered with, more particularly when there is a finding of the Tribunal that the termination of the respondents 1 and 2 is illegal.

5. Taking into consideration the totality of the facts, this Court is of the view that the impugned Award need not be interfered in exercise of power under Section 226 of the Constitution.

6. I do not find any merit in the writ petition. The same is dismissed.

CM No.19937/2016(for stay)

Dismissed as infructuous.

V. KAMESWAR RAO, J

JULY 12, 2016/ak