

\$~13

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

+ LPA 428/2016 & C.M.No. 27635/2016

DILBAG SINGH & ORS Appellant
Through Mr. Prabhakar, Advocate.

versus

M/S ASIATIC ENGINEERS PVT LTD. Respondent
Through

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

%

03.08.2016

The present Letters Patent Appeal, which impugns the order dated 30th November, 2015 passed in W.P.(C) No.10969/2015, is delayed by 213 days and an application for condonation of delay has been filed. However, before issuing notice on the said application, we have considered it appropriate to examine the intra-Court appeal on merits.

2. The appellants had filed W.P.(C) No.10969/2015 challenging the Award dated 17th April, 2012, more than 3 years after the passing of the Award. The said writ petition has been dismissed vide order dated 30th November, 2015 on the ground of

delay and laches.

3. The impugned order dated 30th November, 2015, and the present appeal, indicate that the primary grievance of the appellants was that they ought to have been awarded at least 50% back wages.

4. Reading of the Award would show that the Tribunal had declined to examine and consider the affidavit and evidence filed by the management, holding it to be inadmissible in law. The workers were also disbelieved and it was held that they had failed to prove the allegation that the enquiry held was not fair and proper. Despite recording the said findings, the Award dated 17th April, 2012 granted relief to the appellant-workmen, by way of compensation in accordance with Section 25 F of the Industrial Disputes Act along with an amount of Rs.18000/ each towards litigation expenses, on account of the long gap of time, since their services were terminated in 1994.

5. Facts reveal that the appellants were served with three charge sheets dated 3rd August, 1993, 5th August, 1993 and 7th August, 1993, for threatening, abusing and beating superiors and

co-workers, obstructing production, damaging property, refusing to obey orders, extending threats to members of the administration etc. The initial dispute was that the management, after consultation with the workers' union, had declared 2nd August, 1993 as holiday on account of *Raksha Bandhan* and had declared 1st August, 1993 (Sunday) as a working day. The incidents for which the workers were charge sheeted had occurred on 3rd, 5th and 7th August, 1993.

6. Having examined the case from all angles, we find that the learned single Judge was right and justified in dismissing the writ petition on the ground of delay and laches. The appellants had accepted the Award dated 17th April, 2012, and had belatedly filed the writ petition on change of mind. Consequently, we do not see any reason to issue notice on the application for condonation of delay. The application is dismissed and as sequitur, the appeal will be also treated as dismissed.

SANJIV KHANNA, J.

AUGUST 03, 2016/NA

SUNITA GUPTA, J.