

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision : 30th August, 2017

W.P.(C) 8448/2007

D.T.C.

..... Petitioner
Through Mr. Santosh Kumar Tripathi,
 Standing Counsel

versus

PRITAM LAL

(through LRs)

..... Respondent
Through Mr. H.K. Chaturvedi, Mr. Sagar
 Chaturvedi, Advs.

W.P.(C) 8469/2007

D.T.C.

..... Petitioner
Through Mr. Santosh Kumar Tripathi,
 Standing Counsel

versus

PRITAM LAL

..... Respondent
Through Mr. H.K. Chaturvedi, Mr. Sagar
 Chaturvedi, Advs.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

(ORAL)

ANU MALHOTRA, J.

1. Both these petitions W.P.(C) 8448/2007 and W.P.(C) 8469/2007 relate to claim of the workman, i.e. Sh. Pritam Lal (since deceased and now represented by his legal heirs) in relation to I.D. No. 186/1995, upheld vide Award dated 09.06.1998, and implementation that of LCA No. 78/2000, disposed of vide order dated 28.02.2006, and thus both these petitions W.P.(C) 8448/2007

W.P.(C) 8448/2007

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W.P.(C) 8469/2007

and W.P.(C) 8469/2007 are taken up together for the judgment.

2. Submissions made on behalf of either side.

3. Vide the petition, the petitioner assails the impugned order dated 28.02.2006 of the learned Presiding Officer, Labour Court No. VII, Delhi in LCA No. 78/2000 whereby the application under Section 33 C (2) of the Industrial Disputes Act, 1947 filed by the workman i.e. the respondent herein now succeeded by his legal heirs as per the amended memo of the parties on record, who were brought on record in terms of the order dated 12.02.2013, vide which the workman i.e. the respondent herein since deceased had claimed that an Award dated 09.06.1998 had been passed in his favour in I.D. No. 186/2005 titled as Pritam Lal Vs. Management DTC but despite repeated applications to the management, he had not been paid his back wages w.e.f. 01.01.1999 till 31.08.2000 and that he claims that his back wages as given in the annexure with the application amounting to Rs.2,85,676/- be directed to be paid by the management. The management had contested the application and had filed its written statement contending that the workman was not entitled to any amount and that the award had been duly complied with and the full and final payment had been made to him on 12.10.1989 and it was contended that the workman was not entitled to wages after 01.01.1999 and that the workman had already taken the amount.

4. The workman filed his rejoinder to the said written statement denying all the contents of the management i.e. the petitioner herein and in relation thereto, two issues were framed to the effect : -

(i) Whether the workman has any existing right to claim the present amount?"

(ii) Whether what amount, if any, the workman is entitled?

5. It was held vide the impugned Award that the affidavit of the workman placed on record claiming the amount of Rs.2,85,676/- as arrears of back wages in terms of the Award dated 09.06.1998 had remained unchallenged as the management had not cross-examined him and rather admitted that the amount was due to the workman and that in view of the factum that the amount had been claimed by the workman on the basis of the Award dated 09.06.1998, the workman was held entitled to receive the amount of Rs.2,85,676/-.

6. Vide the Award dated 09.06.1998 in I.D. No. 186/1995 between the workman Sh. Pritam Lal i.e. since deceased and the management of the Delhi Transport Corporation, which is found placed as submitted on behalf of either side by the learned counsel present on the record of W.P.(C) 8469/2007 between the same parties wherein the reference to the effect that *whether the workman Sh. Pritam Lal had been illegally and / or unjustifiably removed from the services of the management and as to what relief he was entitled* had been answered vide the said Award dated 09.06.1998 in view of the unchallenged version of the workman which had not been refuted by the management i.e. the Delhi Transport Corporation that no notice nor notice pay had been given to him at the time of the termination of his services and that no compensation pay had been given and that the workman had worked continuously for more than one year and thus

the requisite notice in terms of Section 25-F of the Industrial Disputes Act, 1947 having not been given and thus his termination tantamounted to retrenchment and as such his removal from service was illegal and unjustified and the workman was held entitled for reinstatement with full back wages.

7. Vide order dated 26.08.2009 in the petition bearing no. W.P.(C) 8469/2007 between the same parties, it was directed that the same to be taken up with the petition bearing no. W.P.(C) 8448/2007 in which the impugned order dated 28.02.2006 in LCA No. 78/2000 was impugned.

8. A bare perusal of the impugned Award dated 09.06.1998 in I.D. No. 186/95 makes it apparent that the version of the workman which had not been refuted by the management i.e. Delhi Transport Corporation that no notice or notice pay had been given to him at the time of the termination of his services and that no compensation pay had been given and that the workman had worked continuously for more than one year and thus the requisite notice in terms of Section 25-F of the Industrial Disputes Act, 1947 had not been given, makes it apparent that there is no infirmity whatsoever in the impugned Award dated 09.06.1998 in I.D. No. 186/95 of the of the learned Presiding Officer, Labour Court No. VII, Delhi directing the reinstatement of the workman with full back wages.

9. The W.P.(C) 8469/2007 is thus accordingly dismissed.

10. The W.P.(C) 8469/2007 as directed hereinabove having been dismissed against the impugned Award dated 09.06.1998 in I.D. No. 186/95, and the factum that the workman vide LCA No. 78/2000 had

sought the disposal of his application under Section 33 C (2) of the Industrial Disputes Act, 1947 bearing his claim on the Award dated 09.06.1998 in I.D. No. 186/95, complied with the factum that the claim in LCA No. 78/2000 was also not opposed on behalf of the management i.e. the Delhi Transport Corporation, there is no infirmity found in the impugned order dated 28.02.2006 of the learned Presiding Officer, Labour Court No. VII, Delhi in LCA No. 78/2000 as well.

11. *Inter-alia*, on behalf of the petitioner it was submitted during the course of the proceedings dated 17.05.2017 on behalf of either side that W.P. (C) 8468/2007 between the management of the Delhi Transport Corporation and the respondent since deceased and now represented by his legal heirs had already been disposed of vide judgment dated 20.04.2015. The order dated 20.04.2015 in W.P. (C) 8468/2007 makes it apparently clear that the application under Section 33 (2) (b) of the Industrial Disputes Act, 1947 being registered as O.P. No. 166/1994 had been dismissed as withdrawn on the statement made on behalf of Delhi Transport Corporation and vide order dated 20.04.2015 in W.P. (C) 8468/2007 categorically observed to the effect that there was no illegality in order of permitting the petitioner to withdraw the W.P. (C) 8468/2007 and that was held to be utterly frivolous petition.

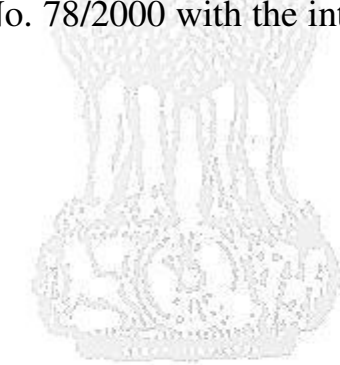
12. A perusal of the record of W.P.(C) 8469/2007 indicates that it was instituted in November, 2007 assailing the impugned Award dated 09.06.1998 in I.D. No. 186/1995. Subsequent thereto the W.P.(C) 8448/2007 was filed against the impugned order dated

28.02.2006 of the learned Presiding Officer, Labour Court No. VII, Delhi in LCA No. 78/2000 in relation to the claim passed on the very same Award dated 09.06.1998 in I.D. No. 186/2005. Apparently, there is no infirmity in the impugned order dated 28.02.2006 in LCA No. 78/2000 nor in the impugned Award dated 09.06.1998 in I.D. No. 186/1995.

13. It is thus apparent that both W.P.(C) 8448/2007 and W.P.(C) 8469/2007 are to be dismissed and are thus dismissed with directions to the petitioner to comply with the impugned order dated 28.02.2006 in LCA No. 78/2000 whereby the workman since deceased now represented by his legal heirs is entitled to the amount of received of Rs.2,85,676/- in LCA No. 78/2000 with the interest @12% per annum as directed thereby.

ANU MALHOTRA, J

AUGUST 30, 2017/mk



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