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

+ W.P.(C) 4587/2017 & CM Nos.20031/2017, 36434/2017

M/S. MTNL Petitioner

Through: Mr. Prashant Sharma, Advocate

versus

SHAILENDER RAM Respondent

Through: Mr. Syed Sajad Ali, Advocate

WITH

+ W.P.(C) 4601/2017 & CM No.20102/2017

M/S. MTNL Petitioner

Through: Mr. Prashant Sharma, Advocate

versus

SUKH LAL Respondent

Through: Mr. Syed Sajad Ali, Advocate

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **14.11.2017**

Learned counsel for the petitioner submits that the petitioner has already paid a sum of Rs.10,000/- to the respondents by way of a cheque, as litigation expenses.

The petitioner has filed the present petition for quashing the impugned order dated 11.5.2017 passed by PO, CGIT, Karkardooma Courts, Delhi in the case titled as Shailender Ram v. MTNL.

The facts of the case are that a fresh claim application u/s 2 A

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of the Industrial Dispute Act, 1947 for reinstatement of respondent was filed by the respondent against the present petitioner on 8.10.2015 before the Presiding Officer, Central Government Industrial Tribunal, Karkardooma Courts, Delhi and the Presiding Officer, CGIT, Karkardooma Courts ordered the summoning on the application against the petitioner on 8.10.2015. It is submitted that, on 18.3.2016, the Presiding Officer, CGIT, Karkardooma Courts closed the right of filing written statement by the petitioner without there being any acknowledgment of the summons of the claim statement on the court file. On 6.4.2017, the officials of the petitioner, i.e., Sh. S.K. Sharma, AGM (Legal) and Sh. Charan Singh, SDE (Legal) came to the Karkardooma Courts for some official job and had further visited the Court of Presiding Officer, CGIT for confirming the next date of hearing in the matter of "Dharmender Pandey v. MTNL" and "Charan Singh v. MTNL." The aforesaid officials meanwhile heard the call of the present case i.e. "Shailender Ram v. MTNL" and thus appeared before the Presiding Officer of CGIT. As such, got to know the proceedings of the case only on that day. The aforesaid official requested some time to go through the court file of the case and for engaging the services of their Panel Counsel and the Presiding Officer, CGIT adjourned the matter for 13.4.2017; that, on 12.4.2017, the petitioner engaged the services of its panel counsel, who inspected the court file on the very same day. On 13.4.2017, the Panel Counsel of the petitioner, on the instructions of the petitioner, filed an application for seeking setting aside of the order dated 18.3.2016, whereby the right of the petitioner to file written statement was closed

by the Presiding Officer, CGIT. On 13.4.2017, after hearing the arguments of the counsel for the petitioner on the aforesaid application, the Presiding Officer of CGIT issued notice to the respondent upon the aforesaid application of the petitioner and thereby put up the matter for 9.5.2017 for filing of reply by the respondent to the aforesaid application of the petitioner, the respondent filed its reply on 9.5.2017 to the aforesaid application for seeking setting aside of the order dated 18.3.2016, whereby the right of the petitioner to file written statement was closed by the Presiding Officer, CGIT. The Presiding Officer, CGIT heard the arguments of both the sides on the very same day and fixed up the matter for passing of order on the aforesaid application of the petitioner for 11.5.2017. The impugned order came to be passed on 11.5.2017 by the Presiding Officer, CGIT, Karkardooma Courts, whereby the application filed by the petitioner for setting aside the order dated 18.3.2016 was dismissed while putting up the matter for *ex parte* evidence of the respondent/workman.

Learned counsel for the petitioner submits that the Tribunal, in its order, has stated that the application moved by the petitioner on 13.4.2017 was without any affidavit of a person. However, the same was supported by an affidavit of the officer of the petitioner. Learned counsel for the respondents submits that, taking into consideration the delay occurred due to the non-appearance of the management/petitioner and just to cut short the delay, the proceedings may be set aside and an opportunity may be granted to the petitioner to file written statement, subject to heavy costs. At this stage, learned

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counsel for the petitioner submitted that the Tribunal did not proceed ex parte against the petitioner management, however, its right to file written statement was closed vide order dated 18.3.2016.

Accordingly, in view of the above facts, the order dated 18.3.2016, closing the rights of the petitioner/management to file written statement, is recalled. The petitioner is given one more opportunity to file the written statement, subject to costs of Rs.11,000/- in each case. The parties shall appear before the Tribunal on 13.12.2017 at 10:00 am, when the petitioner shall file their written statement, subject to payment of costs of Rs.11,000/- in each case. Thereafter, the Tribunal shall proceed in the matter in accordance with law. The petitions as well as the pending applications are accordingly disposed of.


CHANDER SHEKHAR, J

NOVEMBER 14, 2017
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