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

+ W.P.(C) 7709/2017

**Date of Decision: 1<sup>st</sup> September, 2017**

M/S ENGLIFE PRODUCT (INDIA) ..... Petitioner

Through: Mr.Satender Singh, Advocate  
versus

LIEUTENANANT GOVERNOR OF DELHI & ORS  
...Respondents

Through:

**CORAM:  
HON'BLE MS. JUSTICE ANU MALHOTRA**

**JUDGMENT (ORAL)**

1. By the present petition, the petitioner assails the impugned award dated 17.8.2015 in LIR No.249/2014 of the Presiding Officer, Labour Court-XIX, Karkardooma Courts Complex and also the consequential impugned order dated 10.03.2016 in M No.-11289/16 of the Presiding Officer, Labour Court XIX.

2. Vide the award dated 17.8.2015 referred to herein above, the reference made by the Deputy Labour Commissioner, Government of NCT of Delhi vide reference No.F.24(23)/Lab./NE/2014/660 dated

09.04.2014 to the effect:

*“Whether services of Sh. Gyan Singh S/o Sh. Kishan Lal have been terminated illegally and/or unjustifiably by the management and if so, to what relief is he entitled and what directions are necessary in this respect?”*

was answered to the effect that the claim of the claimant, i.e., Gyan Singh, arrayed as respondent No.1, (which apparently ought to be read as respondent No.2, in as much as there are three respondents arrayed on the record), was allowed, and the said LIR was allowed and he was held entitled to reinstatement in service with continuity and full back wages, observing to the effect that the claimant had put forth a grievance that he having been employed with the management M/s Englife Products (India), i.e., the present petitioner in the month of February, 1982 as a Turner, put forth certain demands but the management got annoyed and terminated his services withholding his earned wages for the month of February, 2013, in relation to which also he submitted a complaint to the Labour Department on 2.9.2013 but the management did not come up with the requisite record before the competent authority on 8.10.2013 and 11.10.2013, and in response to the demand notice, the management asked the claimant to

report for duty and on 15.10.2013, when the claimant reached the management establishment, the claimant was not allowed to report for duty. Ultimately, the claimant submitted a complaint dated 30.10.2013 before the Conciliation Officer, raising an industrial dispute and the Conciliation Officer had allowed him to report for duty. Thereafter proceedings in the LIR No.249/2014 were initiated by the claimant and the Management, i.e., the present petitioner chose not to put in appearance despite service of notice in the said case and vide order dated 14.10.2014, the management, i.e., the present petitioner had been proceeded against *ex parte*, whereupon the petitioner led evidence himself as WW1.

3. Vide the said impugned award, it was concluded that from the unchallenged testimony of the claimant, his claim, (i.e., the respondent to the present writ) his claim that he got employed with the management as 'Turner' in the month of February, 1982 and that the management had terminated his services w.e.f. 1.4.2013 when he put forth his demand for the facilities to be provided to its employees stood established and that the record also established that the claimant had worked for a continuous period of 240 days in the year preceding

the date of his termination and thus the requisite compliance of Section 25-F of the Industrial Disputes Act, 1947 had not been made and that the services of the claimant workman had thus been illegally terminated.

4. Vide the consequential impugned order dated 10.3.2016 in M No.11289/16 which is in relation to an application filed by the Management seeking the setting aside of the *ex parte* order dated 14.1.2014 and the consequential award passed on 17.8.2015 in LIR No.249/14, the said applications were declined. It was held vide the impugned order dated 10.3.2016 and observed to the effect that the services of the notice on Mr.Vaibhav, son of the owner of the management, in LIR No.249/14 had not been disputed and the Court found that the management was duly served with the process issued for the dated 14.10.2014.

5. It has also been categorically established vide the impugned order dated 10.3.2016 to the effect that the management could have put in appearance during the period 22.11.2014 to 17.8.2015 also, i.e., the entire period when the industrial dispute remained pending but the management did not participate in any of the proceedings.

6. The factum that the son of the petitioner herein has received the process is not disputed on behalf of the petitioner submitting that the process was undoubtedly delivered on 5.9.2014 to Mr.Vaibhav, the son of the owner of the petitioner M/s Englife Products (India) Ltd.

7. It has however been submitted on behalf of the petitioner that there was the demise of the elder brother of the owner of the petitioner and thus the petitioner and his family were under personal constraints and thus unable to put in appearance before the Labour Court.

8. Qua this aspect, the same *per se* is insufficient for the appearance of the petitioner before the Labour Court for the process had been delivered for the date and also for the reason that as rightly observed vide the impugned order dated 10.3.2016, the management chose not to put in appearance during the entire period when the industrial dispute remained pending which in fact ought to be w.e.f 24.5.2004 till 17.8.2015. This *per se* indicates that there is no infirmity in the impugned order dated 10.3.2016 in M No.11289/16.

9. Another submission made orally on behalf of the petitioner is to the effect that the son of the petitioner, i.e., Vaibhav, to whom the process was delivered on 5.9.2014 was aged 16/17 years and was not

aware of any summons of the Court and that itself would be sufficient to hold that there was no proper service. In relation to the said submission, the Court has given opportunity to the petitioner to place on record, the details of the Date of Birth of the said Vaibhav, the son of the owner of the management, qua which learned counsel for the petitioner submits that he cannot place on record the said details the same being not available with the petitioner.

10. In reply to a specific court query, as to whether this aspect of the son of the owner of the petitioner being aged 16/17 years was initially urged before the Labour Court, in reply to a specific court query it has also been submitted on behalf of the petitioner now that the said submission that Vaibhav is aged 16/17 years is nowhere mentioned on the record in the present petition also. In these circumstances, the said contention also cannot be accepted.

11. In view thereof, it having been already held that there is no infirmity in the impugned order dated 10.3.2016 in M No.11289/16 and taking also into account the observations in the impugned award vide dated 17.8.2015 in LIR No.249/14 made on the basis of the referred claim of the claimant/workman having been established, it is

held that there is no infirmity in the impugned award and the consequential impugned order dated 17.8.2015 and 10.03.2016 respectively of the Presiding Officer, Labour Court –XIX, Karkardooma Courts, Delhi.

12. The petition W.P.(C) No.7709/2017 is dismissed accordingly.

**ANU MALHOTRA, J**

**SEPTEMBER 01, 2017/sv**

