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

% *Date of Judgment: 21.05.2018*

+ **WP(C) 5451/2018 & CM APPL. 21132-21133/2018**

DHARMENDER KUMAR ...Petitioner
Through: Mr.A.K.Thakur, Advocate.

versus

M/S. ADVANCE MACHINERY & ANR. Respondents
Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE VINOD GOEL

VINOD GOEL, J. (Oral)

CM APPL. 21133/2018 (Exemption)

Exemptions granted subject to all just exceptions.

Application is disposed of.

WP(C) 5451/2018 & CM APPL. 21132/2018 (condonation of delay)

1. The petitioner in this writ petition has impugned the award dated 18.01.2014 passed by the learned Presiding Officer, Labour Court XI, Karkardooma Courts, Delhi in ID No.173/11.
2. The facts giving rise to file the present writ petition are that a Reference No.F.3(27)/11/Ref./WD/LAB/380 dated 28.07.2011 was made by the Government of NCT of Delhi under Section 10(1)(c) and 12(5) of the Industrial Disputes Act, 1947 for

adjudication to the Labour Court. The terms of the reference are as under:-

“Whether the services of Sh.Dharmender Kumar S/o Sh. Mani Shankar 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?”

3. After completion of the pleadings and framing of issues, both the parties have adduced their respective evidence. The Industrial Adjudicator concluded that the services of the petitioner/workman were terminated by the respondent No.1/Management illegally and unjustifiably. However, while granting the relief, keeping in view the short length of service with the respondent No.1, the Industrial Adjudicator awarded a lumpsum compensation of Rs.30,000/- to the petitioner in lieu of his reinstatement. It was also held that there was no relationship of employer and workman between the petitioner and respondent No.2. The respondent No.1 was directed to pay the compensation within one month of the award coming into force failing which the interest @9% per annum shall be payable from the date of the award till payment. Cost of the litigation for Rs.5,000/- was also awarded to the petitioner.
4. There is a delay of 1392 days in filing the present writ petition. Learned counsel for the petitioner submits that the petitioner is a resident of State of Bihar and after termination of his service he remained in Delhi with family and because of non-employment he has to shift to his native place in the State of Bihar along with the family by doing work in different fields of

various landlords. He submits that the petitioner has come back to Delhi in December 2007 and seeks condonation of delay in filing the writ petition.

5. The services of the petitioner were terminated by respondent No.1/Management on 12.06.2010. The petitioner/workman raised the industrial dispute which was referred to Industrial Adjudicator vide reference dated 28.07.2011. The reference was answered on 18.01.2014 by the impugned award. The petitioner has not pleaded the relevant material dates or month as to when he left Delhi for his native place in the State of Bihar after the impugned award dated 18.01.2014. Even in the list of dates the petitioner has conveniently mentioned the date of award as 18.01.2014 but cleverly mentioned only the year 2014 as leaving Delhi for his native place in State of Bihar.
6. The petitioner has not given any plausible explanation for the exorbitant and inordinate delay for four years in approaching this Court.
7. Though no period of limitation is prescribed for filing a petition under Article 226 of the Constitution of India but there is no rule of universal application for condonation of delay. There may be no period for limitation prescribed for filing the petition under Article 226 of the Constitution of India yet the person aggrieved should approach the court without loss of time and if there is a delay, the petitioner must offer cogent explanation. The line of decision of the Hon'ble Supreme Court on the issue would be indicative that the courts have evolved self imposed

restraints in inquiring into belated or stale claims. One who is tardy, not vigilant and does not seek intervention of the Court within a reasonable time from the date of arising of the cause of action or alleged violation of the constitutional, legal or other rights, is not entitled to relief under Article 226 of the Constitution of India.

8. Since the petitioner has not offered any just or plausible explanation in the writ petition, hence, the same is held to be barred by delay and laches. Accordingly, the application being CM No.21132/2018 seeking condonation of 1392 days' delay along with writ petition is dismissed.

(VINOD GOEL)
JUDGE

MAY 21, 2018
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