

\$~27

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

% *Date of Judgment: 04.05.2018*

+ **WP (C) 4685/2016**

SANJEET KUMAR GUPTA @ SANJEET Petitioner
Through: Mr.D.B. Yadav, Advocate.

versus

M/S BANSAL INDUSTRIES AND ANR Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE VINOD GOEL

VINOD GOEL, J. (ORAL)

1. The petitioner has challenged the award dated 21.01.2011 in ID No. 09/08 (234/08 New) passed by the learned Presiding Officer, Labour Court-09, Karkardooma Courts, Delhi (in short 'Industrial Adjudicator').
2. Despite the notice of the writ petition having been served, there has been no appearance on behalf of the management/respondent no.1. The respondent no.1 did not appear on 02.02.2017, 16.05.2017, 24.07.2017, 19.12.2017 and 01.03.2018. The respondent no.2 is a formal party.
3. Learned counsel for the petitioner submits that the wife of the petitioner was seriously sick and for that reason the petitioner

could not appear before the Industrial Adjudicator on 21.01.2011. He submits that the petitioner had already filed his affidavit in evidence on 16.11.2010. He submits that on that day the counsel for the petitioner had appeared before the Industrial Adjudicator and sought a date on medical grounds, which was declined and evidence was closed and award was rendered against the petitioner dismissing his claim petition.

4. He further submits that subsequently the petitioner filed an application along with affidavit and prescription dated 21.01.2011 of his wife on 26.02.2011 for setting aside the Award dated 21.01.2011 but it was dismissed by the Industrial Adjudicator.
5. I have heard the learned counsel for the petitioner and perused the record.
6. In the facts and circumstances of the case, I find that the petitioner was not given the due opportunity by the Industrial Adjudicator for adducing his evidence in support of his claim. He had already filed his affidavit in evidence on 16.11.2010. On the crucial date, request was made for adjournment on medical ground which was declined without any justification. There could be no intention of the petitioner to delay his own case particularly when his affidavit in evidence was already filed on previous date. Therefore, the impugned award dated 21.01.2011 is hereby set aside with the direction that the Industrial Adjudicator shall give one more opportunity to the petitioner to

adduce his evidence. The Industrial Adjudicator shall also give opportunity to the respondent to adduce its evidence and decide the matter in accordance with law as expeditiously as possible within three months from 09.07.2018..

7. The parties shall appear before the Industrial Adjudicator on 09.07.2018.
8. The petition is disposed of accordingly.
9. Trial court record be sent back immediately.

MAY 04, 2018
"shailendra"

(VINOD GOEL)
JUDGE



सत्यमेव जयते