

\$~101

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

+ **LPA 656/2018**

AMRIK SINGH Appellant

Through: Mr. S. C. Kumar, Advocate.

versus

GOVT OF NCT OF DELHI & ANR Respondents

Through: Mr. S. K. Tripathi, ASC with
Mr. Shashank Tiwari, Adv. for R1.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **27.11.2018**

CM.APPL.49062/2018 (exemption)

1. Exemptions allowed, subject to all just exceptions.

CM.APPL.49064/2018 (delay)

2. For the reasons explained in the application, the delay in refiling the appeal is condoned and the application is allowed.

LPA 656/2018 & CM.APPL.49063/2018 (Stay)

3. The present appeal has been filed against a judgment dated 27th June 2018 of the learned Single Judge of this Court dismissing the Appellant's W.P.(C) 3463 of 2017 thereby affirming an award dated 27th August 2016 passed by the Labour Court allowing the claim of Respondent No.2, a workman.

4. The case of the Respondent No.2 was that he had joined as a salesman with the proprietary concern of the Appellant's father, Mr. Harnam Singh, way back in 1965 and that he, thereafter, continued working with the present Appellant's proprietary concern.

5. The Labour Court framed three issues for consideration, the first of which was whether there exists any relationship of employer and employee between the parties. Here, the evidence was led by both parties and this was discussed threadbare by the Labour Court. It answered the above question in the affirmative and further held that the services of Respondent No.2 had been terminated illegally by the Appellant on 2nd July 2014. However, since Respondent No.2 was already 65 years old as on the date of the order, the Labour Court, instead of granting the relief of reinstatement, awarded him a lump-sum compensation of Rs.3.5 lakhs considering that his last drawn salary was Rs.10,000/- per month.

6. It was repeatedly urged before the learned Single Judge by the Appellant that Respondent No.2, if at all, was an employee of the erstwhile firm of the Appellant's father and it was only in December 1993 that the proprietary concern of the Appellant came into existence. It was urged that the Appellant had not engaged Respondent No.2 as an employee and, therefore, there was no relationship of employer and employee.

7. In the impugned judgment, the learned Single Judge has again discussed the evidence led before the Labour Court. Among the factors that have weighed with the learned Single Judge were:

(i) A letter of authorisation issued by the Appellant on the letterhead of

the firm to the Manager, Canara Bank requesting him to deliver his FDR to Respondent No.2.

- (ii) A handwritten calculation-sheet, on which the handwriting was admitted by the Appellant, which showed the balance amount of Rs.28,300/- owed to Respondent No.2.
- (iii) Several letters with postal stamps from the year 1969 onwards addressed to Respondent No.2 at the address of the Appellant's father's firm. The learned Single Judge thereby concluded that "the only inference which can be drawn is that there was a relationship of employer and workman between the Petitioner and Respondent No.2". What has also been noted by the learned Single Judge is that the only relief granted was a monetary lumpsum compensation of an insubstantial sum of Rs.3.5 lakhs with interest.

8. Having heard learned Counsel for the Appellant, who has again taken us through the impugned judgment of the learned Single Judge as well as the award of the Labour Court and the documents on record, this Court is not persuaded that there are any grounds for interference with the impugned judgment of the learned Single Judge.

9. There are concurrent findings of fact after discussion of the evidence. Given the limited scope of interference, the Court is not persuaded that the award of the Labour Court or the impugned judgment of the learned Single Judge suffers from any legal infirmity that warrants interference by this Court.

10. The appeal is accordingly dismissed. The pending application is also dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

NOVEMBER 27, 2018

tr