

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

Date of Order: December 04, 2018

+ **W.P.(C) 13055/2018**

DELHI INTERNATIONAL AIRPORT LTD (FORMERLY
KNOWN AS DELHI INTERNATIONAL AIRPORT PVT
LIMITED) Petitioner

Through: Mr.Rajiv Nayar, Senior Advocate
with Mr. Anirudh Bakhru, Mr.
Shadman Siddiqui and Mr. Vivek
Kaushal, Advocates

versus

RAJESH OBEROI

..... Respondent

Through: Mr.K. Viswanath, Advocate

**CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR**

ORDER
(ORAL)

CAV 1120/2018

Mr. K. Viswanath, Advocate appears on behalf of caveator. Caveat stands discharged.

C.M.50688/2018 (Exemption)

Allowed subject to all just exceptions.

W.P.(C) 13055/2018 & CM 50687/2018

1. Mr. K. Viswanath, Advocate accepts notice on behalf of respondent.
2. Since the issue involved in this petition is short one, therefore, with

the consent of learned counsel for the parties, this petition is taken up for final hearing today itself.

3. To assail the impugned order, learned senior counsel for petitioner places reliance upon Supreme Court's decision in *Lord Krishna Textile Mills v. Workmen*, AIR 1961 SC 860 to submit that no prior permission was required for proceeding under Section 33(2)(b) of *the Industrial Disputes Act, 1947*. Learned senior counsel for petitioner submits that the impugned order does not disclose any basis on which interim relief has been granted to respondent. It is also submitted by learned senior counsel for petitioner that petitioner has to get examined the Inquiry Officer in evidence and no other witness.

4. On behalf of respondent, it is submitted that the Inquiry conducted by petitioner is vitiated as the documents relied upon by petitioner have not been supplied to respondent. Another plea put forth is that respondent was not allowed to be assisted by a Defence Assistant. Respondent's counsel further submits that except respondent, no other witness has to be got examined. It is also submitted that the matter is now coming up before the Tribunal on 7th December, 2018 for tendering of petitioner's evidence.

5. Upon hearing and on perusal of impugned order, material on record and the decision cited, I find that the Tribunal has noticed the factual and legal position, but has not provided any reasoning to grant 50% of last drawn wages as interim relief to respondent. Whether applicable provision is Section 33(1) or Section 33(2) of *the Industrial Disputes Act, 1947*, is the subject matter of the main case and is not required to be gone

into, while considering the validity of the interim order.

6. Instead of remanding the matter back to the concerned Tribunal to decide the application for interim relief afresh, it is deemed appropriate to put the interim relief on hold while directing the Tribunal to expeditiously conclude the proceedings under Section 33 of *the Industrial Disputes Act, 1947* within a period of twelve weeks from the date already fixed by the Tribunal. Such a course is being adopted because petitioner has to tender its evidence on 7th December, 2018 and respondent-Workman has to step into the witness box thereafter to depose. During the course of hearing, this Court was apprised that no other evidence is to be led by the parties except evidence of Inquiry Officer. In these peculiar circumstances, petitioner is permitted to deposit 50% of the last drawn wages with the Tribunal within four weeks, as one time measure. Upon such deposit being made, it be converted into FDR and retained by the Tribunal and its release would be subject to outcome of the main case, which the Tribunal has to positively conclude within the aforesaid timeline. To facilitate it, cross-examination of respondent be completed within this month, by granting about half hour or so to petitioner for cross-examining the respondent. Petitioner's cross-examination be also conducted in a similar fashion.

7. While modifying the impugned order to the aforesaid extent, this petition and the application are accordingly disposed of.

DASTI.

(SUNIL GAUR)
JUDGE

DECEMBER 04, 2018

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