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

+ LPA 498/2019 & C.M. No. 34448/2019 (delay)

KISHOR GIRI

..... Appellant

Through: Mr.Rajat Sharma, Advocate

versus

THE MANAGEMENT OF M/S SOUTH AFRICAN BREVERIS
(INDIA) LTD

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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19.11.2019

1. The appellant has preferred the present appeal to assail the order dated 7th May, 2019 passed by the learned Single Judge in W.P.(C) 2716/2019.
2. The learned Single Judge has dismissed the said writ petition preferred by the appellant to assail the award dated 27th November, 2010 passed by the Labour Court. The Labour Court dismissed the claim on the ground that there was no employer-employee relationship established by the appellant with the respondent-Management.
3. The learned Single Judge held that the writ petition filed after a delay of more than eight years was barred by delay and laches. The Learned Single Judge also found no infirmity in the impugned award.
4. Learned counsel for the appellant submits that the delay occurred since the appellant had gone away to his village, as he was not able to get a job in

Delhi. He learnt about of the passing of the award dated 27th November, 2010 only after he returned back.

5. We do not find any merit in his submissions. It was for the appellant to follow up his claim before the Labour Court. Merely because he claims to have gone to his village, it is no justification for not to have pursued the matter and to prefer present writ petition within a reasonable period of time. Otherwise on merits as well, we are of the view the learned Single Judge has rightly held that the appellant has not been able to successfully assail the impugned award. A perusal of the impugned award shows that same is premised on evidence recorded before and appreciated by the Labour Court. The stand of the respondent was that the appellant have been engaged by Mr. R.D. Power and Mr. Tim William as a driver in their personal capacity and all payments have been made to the appellant directly. Management had not paid any salary/wages. The procedure followed by the respondent-Management was to transfer the salary of the employees in the bank account with Standard Charted Bank, Gurgaon. The procedure was not adopted in relation to the appellant. The appellant's attendance was also not recorded by the management. The appellant had placed reliance on documents purportedly bearing signatures of Mr. R.D Power. However, those signatures were not found to match with the signatures found on the record of the management during the relevant time. The management had also claimed that it used to engage personnels from the employment exchange or by way of advertisements of newspaper. The appellant admitted that he was never enrolled with the employment exchange and he did not receive any interview call from the management and that he was not issued any appointment letter by the management.

6. Consequently, the Labour Court came to conclusion that the appellant had failed to establish his employment with the respondent-Management.

7. Since we have examined the appeal on merits, there is no reason to deal with the application seeking condonation of the delay in filing in present appeal.

8. In view of the aforesaid, the appeal is dismissed.

VIPIN SANGHI, J

SANJEEV NARULA, J

NOVEMBER 19, 2019

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