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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision:- 13.09.2019

+ W.P.(C) 9854/2019 & CM No.40708/2019 (for exemption)

DINESH KUMAR

..... Petitioner

Through: Mr.Akarsh Bhalla & Mr.Pankaj
Arora, Advs.

versus

M/S TREAD STONE LTD. AND ANR.

..... Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present petition under Articles 226 and 227 of the Constitution of India assails the award dated 26.03.2018 passed by the learned Labour Court, South West District, Dwarka Courts, New Delhi in LIR No.3843/16 (Old ID No:204/2015) whereunder the petitioner's claim for reinstatement has been rejected.

2. The petitioner, joined the respondent company in its Delhi office as a Checker on 02.08.2000. In 2009, the petitioner being desirous of seeking an alternate employment, requested the respondents to issue him an experience certificate, which was duly issued to him on 13.02.2009 but he continued to serve at the

respondent company till 08.10.2010 even after the respondents' unit was shifted to Faridabad in May-June 2010.

3. On 22.12.2010, the petitioner claiming that he had been illegally terminated on 09.10.2010 without holding any inquiry, issued a demand letter to the respondent seeking his reinstatement and, thereafter, raised an industrial dispute. Before the labour Court, the respondents filed their written statement claiming that the petitioner had abandoned services on his own and had, despite being repeatedly asked to rejoin duty by the respondents vide their letters dated 11.10.2010 and 27.10.2010, failed to do so. In its rejoinder, the petitioner denied the receipt of the letters on the ground that he was not residing at the address to which the letters had been sent.

4. The learned Labour Court, after considering the submissions of the parties and the evidence led before it, came to the conclusion that the petitioner had abandoned his services.

5. Impugning the said award, learned counsel for the petitioner submits that once it was admitted that the petitioner's services had been terminated without conducting any domestic inquiry as also the fact that the call letters stated to have been issued to him by the respondents were not received by him, it was evident that his services had been illegally terminated. He submits that if the petitioner had, indeed, abandoned his services, as alleged by the respondents, there was no reason for him to raise a demand notice in December 2010. He, therefore, prays that the impugned Award be set aside and that the respondents be directed to reinstate the petitioner with all consequential back wages.

6. I have considered the submissions of the learned counsel for the petitioner and have perused the record.

7. A perusal of the record shows that even though the petitioner claims to have shifted his residence, he never informed the respondents about the same and, therefore, the respondents cannot be faulted for sending call letters to him at the address furnished by the petitioner himself. The petitioner simply claims that he was illegally terminated w.e.f. 09.10.2010 without being issued any termination order. He has failed to explain as to whether he took any steps to rejoin service after 09.10.2010 till the issuance of the demand notice on 22.12.2010.

8. In the light of the admitted position that the petitioner had earlier also requested the respondents to issue an experience certificate to him as also the fact that he had neither communicated the information regarding the change in his residential address to the respondent nor had he raised any grievance regarding his alleged illegal termination between 09.10.2010 till 22.12.2010, it is evident that the petitioner was trying to look for alternate employment once he realised that the respondent company was relocating its unit from Delhi to Faridabad. It is only when he was not able to find any suitable alternate employment that he chose to issue the demand notice to the respondents and, in these circumstances, the Labour Court was fully justified in coming to the conclusion that the petitioner had voluntarily abandoned the service of the respondents.

9. I find no infirmity with the impugned Award warranting the exercise of writ jurisdiction under Articles 226 and 227 of the

Constitution of India.

10. The writ petition being meritless is dismissed along with the pending application.

(REKHA PALLI)
JUDGE

SEPTEMBER 13, 2019

gm

