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

Date of Decision :- 19.11.2019

+ W.P.(C) 8244/2017

SH. RAKESH MISHRA Petitioner

Through: Mr.K.C. Dubey, Adv.

versus

M/S HUKSON TRADING CORPORATION Respondent

Through: Mr.Ashish Sharma, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present writ petition filed by the workman assails the award dated 05.04.2017 passed by the learned Labour Court-XVI, Karkardooma Courts, Delhi in LIR No.1486/16. Under the impugned award the learned Labour Court has, after coming to the conclusion that the petitioner voluntarily left his job with the respondent after settling all dues in order to join another company, rejected the petitioner's claim by holding that he was not illegally terminated.

2. The petitioner, claiming that he had been engaged as a Field Worker in the respondent establishment since February, 2007 before being illegally terminated on 27.09.2013, raised an industrial dispute which came to be referred to the Labour Court. Before the Labour Court, the respondent filed its written statement denying the petitioner's claims and specifically stating that even though he had

joined the services of the respondent on 12.12.2007, the petitioner had voluntarily left service on 30.06.2009. It was further urged that when the petitioner subsequently approached the respondent for his re-appointment, in view of the fact that it had been awarded the contract for installing fire fighting system at Sapru House, New Delhi at that stage, the respondent re-appointed the petitioner for supervising progress of this work. The respondent averred that it had been made clear to the petitioner that his period of appointment would continue till conclusion of the work at Sapru House. The respondent further averred that, in any event, the petitioner had voluntarily left service on 27.09.2013 with the intention of joining another organisation and had, resultantly, not only received all his dues but had specifically made an endorsement to that effect by way of a voucher stating that he had settled all his dues with the respondent. In its rejoinder affidavit the petitioner sought to deny this averment by claiming that the respondent had made him sign blank vouchers which were now being used to defeat his claim. At the time of cross-examination, the petitioner specifically admitted that after leaving the respondent's services, he had joined another company for four months in September, 2013 but did not find this job satisfactory.

3. On the other hand, the respondent examined Mr.O.P. Bakshi, its partner as MW-1 who once again reiterated the submissions made in the respondent's written statement. The said witness was extensively cross-examined by the petitioner, but nothing substantial came out of the said examination. In fact, the witness reiterated that the petitioner had taken all his dues and has finally settled the matter with the

respondent. Based on the pleadings of the parties, the following issues were framed by the learned Labour Court:-

“i) Whether the claimant was engaged to work for a specific period till the completion of job of fire fighting system?

ii) Whether the services of the workman have been illegally terminated by the management?

iii) Relief.”

4. After considering the evidence led by the parties, the learned Labour Court rejected the claim of the petitioner by observing as under:-

“20. The claimant has maintained that the management had obtained his signatures on blank vouchers during the course of service. The argument thus would be that the management has fabricated the receipts. However, In his cross examination he admitted that he never made any complaint to the police or any other authority that his signatures were ever obtained by the management on blank papers. Even during his cross examination when the said vouchers were put to him, the claimant nowhere stated that the said vouchers, being produced by the management, were fabricated documents. It appears that the claimant has concealed the material facts from this court and is trying to take benefit of his own lapses which he cannot be permitted to take. Ex.WW1/M-2 (Bio-data admittedly given In 2007) and Ex.WW1/M-3 (voucher dated 06.07.2009 showing full and final settlement) show that the claimant worked in the first spell from 2007 till 06.07.2009 and the said term came to an end at that point of time.

21. Now comes the second spell. After the first spell ended in 2009, the claimant applied afresh on 04.06.2012 (Bio-data dated 04.06.2012 Ex.WWI/MI) and thereafter, he worked with the management till September 2013 as

evidenced by Ex.WW1/M-4. Claimant admitted in his cross examination that a tender of installation of Fire Fighting System at Sapru House was received by the management but he stated that he does not remember the relevant date. So, receipt of such a tender by management is admitted by him. There is no cross examination of management witness on this count nor any suggestion was given to him that no such tender was received by the management. There is no suggestion to the management witness that claimant continuously worked with the management from 2007 onwards. Voluntarily giving up of job of the management by the claimant becomes clear from cross examination of the claimant when he stated that after September 2013 he joined a company for about four months but said job was not satisfactory. Thereafter, the claimant realized impact of his answer and changed his version to state that he did not join any company but did some petty work. For ready reference, relevant part of his cross examination in this regard is extracted below:

"I joined a company for about four months after September 2013 but the job was not satisfactory. Again said, did not join any company but did some petty work."

22. Clearly, the claimant knew that if, he admits to have joined some other company in September 2013, he may be called upon to provide the name of the said company which may perhaps open a new story which may be contrary to his case. Preponderance of probability show that the claimant himself had left the job of the management in September 2013 by settling his accounts with the management for joining another company and as such, it cannot be said that the services of the claimant were illegally terminated by the management in September 2013. These issues are thus answered accordingly.

5. Impugning the said award, the present petition has been filed by the Management. Learned counsel for the petitioner reiterates the submissions made on its behalf before the Labour Court and vehemently contends that the Labour Court has failed to appreciate that the petitioner had been continuously employed in the respondent organisation from 2007 and, therefore, there was no reason for him to leave service on his own by accepting a meagre sum of Rs.4,000/- as full and final settlement of all his dues. He further submits that since the respondent had failed to place on record a copy of its alleged contract with Sapru House, its plea that the petitioner had been engaged only for the limited purpose of providing services under the contract ought to have been rejected. He, therefore, prays that the impugned order be set aside and the respondent be directed to reinstate the petitioner with full backwages.

6. On the other hand, learned counsel for the respondent while supporting the impugned award, reiterates that once the petitioner voluntarily left the respondent's services after settling his accounts in order to join another organisation, the Labour Court was fully justified in rejecting his claim that he was illegally terminated from service. He further submits that in view of the categorical admission of the petitioner during his cross-examination that he had joined another organisation in September, 2013 itself but did not like the job, it is evident that the petitioner had voluntarily left service. He therefore, prays that the writ petition be dismissed.

7. Having considered the submissions of the learned counsel for the parties and perused the record with their assistance, I find

absolutely no merit in the petitioner's contentions. Even though this Court, while exercising its writ jurisdiction, is not expected to venture into re-appreciation of evidence unless some perversity is pointed out, I have still examined the evidence and find no reason to differ with the conclusions arrived at by the Labour Court. The evidence led before the Labour Court, including the petitioner's cross-examination as also of the respondent's witness namely, Shri O.P. Bakshi, leaves no manner of doubt that after the petitioner voluntarily left the respondent's service to join another organisation and found the same to not be to his liking, he raised a claim against the respondent.

8. I also do not find any merit in the petitioner's contention that there was no reason for the petitioner to accept a meagre sum of Rs.4,000/- in full and final settlement of his dues. Once it is evident that the petitioner, desirous of joining another organisation, had voluntarily left service, the petitioner's acceptance of a meagre amount in lieu of his resignation cannot be a ground to hold that he did not voluntarily leave the respondent's services.

9. I also do not find any merit in the petitioner's contention that since the respondent failed to produce a copy of its contract with Sapru House, its plea that the petitioner was engaged only for the purpose of performing supervisory duties for the contract work at Sapru House should have been rejected. Once the respondent's witness had categorically asserted this fact in his evidence and no question on this aspect was put to him in cross-examination, the mere non-production of a copy of this contract before the Labour Court would not in any manner invalidate the respondent's stand. In any

event, in view of the specific finding of the Labour Court that the petitioner had voluntarily left the respondent's service to join another organisation, with which finding I have no hesitation in concurring, nothing turns on the respondent's failure to place on record a copy of its contract with Sapru House.

10. For the aforesaid reasons, I find absolutely no reason to interfere with the impugned award which is based on a correct appreciation of facts. The present petition, being meritless, is dismissed.

NOVEMBER 19, 2019

gm

REKHA PALLI, J.