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

Date of Decision: 24.09.2019

+ W.P.(C) 10336/2017

RAMJIVAN GUPTA Petitioner
Through Petitioner in person.

versus

M/S JAGRAN PRAKSHAN LTD. Respondent
Through Counsel for the respondent.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present writ petition under Article 226/227 of the Constitution of India, assails the Award dated 15.07.2016, passed by the learned Labour Court X, Karkardooma Courts, Delhi, in ID No.4607/2016, rejecting the petitioner's/workman's claim after closing his evidence vide a separate order passed on the same date.
2. The petitioner joined the services of the respondent/management as a Phototype Setting Operator on 15.10.1992 and was promoted as a Production Officer on 01.11.2003. While he was working as a Production Officer, the respondent on 15.05.2012, issued an order transferring the petitioner from Delhi to Jammu. After receipt of the transfer order, the petitioner submitted an application dated 21.05.2012, along with his medical certificates, seeking leave on medical grounds which was granted to him w.e.f. 22.05.2012. After the expiry of the leave period, the petitioner was issued repeated letters by the respondent asking him to join duties at

Jammu which he did not join and instead raised an industrial dispute claiming therein that he had been illegally terminated from service. When the said industrial dispute was taken up for consideration, the learned Labour Court vide its order dated 18.12.2015, granted time to the petitioner to file his affidavit in evidence and adjourned the matter for 04.03.2016 for recording of his statement and cross-examination. On 04.03.2016, an adjournment was sought by the petitioner on the ground that his authorised representative was admitted in hospital, which adjournment was granted to him and the matter was adjourned to 15.07.2016. On the said adjourned date, the petitioner was not represented and, therefore, the Court after noticing that the affidavit in evidence had not been filed by him closed his evidence. The Court then proceeded to pass the impugned Award on the same date rejecting the petitioner's claim by observing that the respondent/management was within its rights to transfer him from one place to another.

3. Impugning the said order, the present writ petition has been filed. The petitioner who appears in person, submits that the learned Labour Court while closing his right to file evidence on 15.07.2016, has failed to consider the fact that this was the second date for filing of evidence and once the petitioner had already pointed out to the Court that his authorised representative was hospitalised, the Court ought to have granted at least one more opportunity to him to submit his evidence by way of affidavit, instead of hastening to pass the Award, on the said date itself. He further submits that on 15.07.2016, the petitioner was en route to the Labour Court and was held up in a jam near Dilshad Garden Metro Station and, therefore, could not appear before the Court in time. He, therefore, prays that the impugned Award be set aside and the matter be remanded back to the

Labour Court, after giving him an opportunity to file his evidence.

4. Learned counsel for the respondent very fairly does not oppose the petitioner's request for remand of the matter to the Labour Court for re-adjudication on merits. He, however, submits that the petitioner ought to be directed to file his affidavit by way of evidence in a time bound manner so that the proceedings are not unduly delayed.

5. I have considered the submissions of the parties and with their assistance, perused the record.

6. Since the entire case of the petitioner is that his evidence was closed without giving him adequate opportunity, it is deemed appropriate to refer to orders passed by the Labour Court on 08.12.2015, 04.03.2016, 15.07.2016 which are reproduced hereinbelow for the sake of clarity:-

“Order dated 08.12.2015

To come up for filing of affidavit of the workman in evidence and for statement and cross-examination of the workman on 04.03.2016.”

Order dated 04.03.2016

Workman evidence by way of affidavit not filed.

Adjournment prayed for by the workman on the ground that his AR is admitted in the hospital., Heard. Adjournment granted.

To come up for filing of affidavit of workman in evidence, statement and cross-examination of the workman on 15.07.2016.

Order dated 15.07.2015

Workman not present. Adjournment prayed for on behalf of the workman on the ground that AR of the workman has not come to the Court today due to death of his relative. Heard. Workman is also not present. Issues in the present case were framed on 24.09.2015 and the matter was adjourned for workman evidence for

08.12.2015. Till date even the affidavit of the workman has not been filed in evidence despite the opportunities given to the workman for this purpose. Since the workman is not present today the workman evidence is closed. As there is no evidence on behalf of the workman, management evidence is also closed.

Heard the AR of the management. File perused. The claim of the workman is rejected vide my separate award dated 15.07.2016. Reference is answered accordingly. Requisite numbers of copies of the award be sent to the competent authority for publication.

File be consigned to Record Room.”

7. A perusal of the order dated 18.12.2015, shows that the matter was for the first time fixed for filing of affidavit in evidence by the workman on 04.03.2016. This affidavit in evidence was not filed on that day. However, a valid explanation was given by the petitioner for the same. Thereafter, on the very next date i.e., 15.07.2016, the Labour Court not only closed the evidence of the petitioner but also passed the impugned Award. It appears that the Labour Court while closing the right of the petitioner to file his evidence, vide its order dated 15.07.2016, has overlooked the fact that the Industrial Disputes Act, 1947 is a piece of social legislation where the rights of the workman are pitted against the management and therefore before closing the right of the workman to lead evidence, the Court should consider whether it is a case of repeated adjournments being sought without any valid justification. In the present case, the record does not in any manner reflect that the petitioner was seeking any unnecessary adjournments or was trying to delay the matter. In my view, this kind of approach of the Labour Court is not in consonance with the statement of objects and reasons of the Industrial Disputes Act, 1947, which is a beneficial legislation which not only aims to provide a permanent machinery for settlement of disputes but also

aims to improve the service conditions of industrial labour force.

8. For the aforesaid reasons, the impugned Award is set aside and the matter is remanded back to the Labour Court for fresh adjudication. The parties will appear before the concerned Labour Court, Rouse Avenue Court Complex, New Delhi. The petitioner is granted three weeks' time to file his evidence. The parties will appear before the learned Labour Court on 06.11.2019, for further proceedings as per law.

9. The writ petition is disposed of in the aforesaid terms.

10. It is made clear that this Court has not made any observations on the merits of the claims of the parties.

(REKHA PALLI)
JUDGE

SEPTEMBER 24, 2019/aa