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

+ **W.P.(C) 8487/2019**

MURLI DHAR

..... Petitioner

Through: Mr.Vivek Kumar Tandon &
Ms.Megha Sharma, Advs.

versus

M/S APSARA BISCUITS COMPANY

..... Respondent

Through: Mr.Tushar Parashar, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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14.01.2020

1. The present writ petition filed by the workman assails the order dated 15.04.2019 passed by the learned Labour Court, Dwarka Courts, New Delhi in LIR No.3887/2016. Under the impugned award, the petitioner's claim has been rejected on the ground that he had, despite repeated opportunities, failed to lead evidence in support of his claim that his services had been illegally terminated by the respondent/management.

2. Learned counsel for the petitioner submits that the learned Labour Court, while passing the impugned award, has failed to appreciate that the petitioner had already filed his evidence by way of affidavit before the Labour Court. However, he could not appear before the Court and tender his affidavit in accordance with law on account of his mother's serious illness, which was a grave

contingency and could not be interpreted as the petitioner's lack of interest in leading evidence. He submits that the Labour Court has failed to appreciate that the petitioner's non-appearance was neither wilful nor deliberate, and was due to reasons beyond his control. He further submits that the petitioner was aggrieved of being illegally terminated after twenty years' of service and, therefore, had no reason for not pursuing his claim petition, which aspect has also not been considered by the Labour Court while passing the impugned award.

3. Upon notice being issued, Mr. Tushar Parashar, Advocate enters appearance on behalf of the respondent and fairly does not oppose the present petition.

4. From a perusal of the record, it transpires that since the industrial dispute was still at the initial stages, none of the parties had led any evidence before the Labour Court. Even though the petitioner was at fault for failing to tender his evidence within the time granted to him, but keeping in view the fair stand taken by the learned counsel for the respondent, the nature of the petitioner's claim and his explanation for being unable to appear before the Labour Court, interest of justice demands that he be granted one more opportunity to tender evidence in support of his claim. In these circumstances, the impugned award is set aside and the matter is remanded back to the Labour Court for fresh adjudication in accordance with law. It is made clear that the Labour Court will not grant more than two opportunities to the petitioner to tender his evidence, whereafter the matter will proceed in accordance with law after granting the respondent an opportunity to lead evidence as well.

5. The parties will appear before the Labour Court on 30.01.2020, on which date the Labour Court will fix a convenient date for fresh proceedings in accordance with law.

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

DASTI.

REKHA PALLI, J

JANUARY 14, 2020

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