

\$~44

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

+ W.P.(C) 8688/2019

M/S G.D.B. INDIA

..... Petitioner

Through: Mr. H.K.Chaturvedi, Ms. Anjali
Chaturvedi, Mr. Sagar Chaturvedi &
Mr. Shravan Chandershekhar,
Advocates

versus

SH. OM PRAKASH JOSHI AND ORS.

..... Respondents

Through: Mr. Chandan, Advocate for R-1

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **27.01.2020**

W.P.(C) 8688/2019 & CM APPL. 3260/2020

1. The petitioner impugns the award passed by the learned Labour Court dated 12.11.2018 in reference made under Section 10(C) of Industrial Disputes Act, 1947 bearing No. New ID No:6129-16 on the ground that, they were never served notice of the industrial dispute.
2. The learned counsel for the respondent submits that they have provided a fresh address of the management i.e. Plot No. F-301, Second Floor, Lado Sarai Mehrauli, New Delhi. The Court has gone through the record and is unable to find any proof of notice having been served at the said address.
3. The process-server in his report dated 31.12.2019, has recorded to the effect that, he went to the said address of M/s G.D.B India, where one person told him that he was working with V & P Clothing. The person did not disclose his name but informed the process-server that there were many

other companies/entities in the building and that he did not represent M/s G.D.B India. The process-server did not record whether he saw any nameplate, board or indication that the place where he went was the address bearing No. Plot No. F-301, Second Floor, Lado Sarai Mehrauli, New Delhi or that the door he pasted the notice on, belonged to the petitioner- M/s G.D.B India. Furthermore, the report does not have any clarity as to the precise spot or place where he pasted the notice. In the circumstance, the service of notice shall be deemed to be incomplete.

4. The basic principle of natural justice that all parties should be heard before adjudication of a *lis*, ought to be ensured. Since the petitioner was not duly served a notice, it could not be heard, resultantly, the conclusion of the proceedings is vitiated by process. Therefore, the impugned award is set aside and the case is remanded to the learned Labour Court for according due opportunity to the petitioner to put up its case.

5. The reply of the petitioner shall be filed within two weeks from today with the supply of an advance copy to the learned counsel for the respondents, who may file their rejoinder, if so, instructed before the next date of hearing.

6. The *lis* arose approximately seven years ago. This Court had granted Rs.10,000/- as litigation expenses to the workmen and the same has been received by them. Since the grievance of an aggrieved workman has been remanded to the learned Labour Court for further adjudication, let another Rs. 10,000/- be paid to him by the petitioner within two weeks from the date of receipt of copy of this order. The monies deposited in this Court shall be kept in an interest bearing FDRs, subject to further orders of the learned Labour Court.

7. The parties shall appear before the learned Labour Court on 12.03.2020.
8. The petition is allowed and disposed-off in the above terms.
9. The next date of hearing i.e. 17.02.2020 stands cancelled.

NAJMI WAZIRI, J

JANUARY 27, 2020
hk