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

+ **W.P.(C) 10568/2022, CM APPL. 30549/2022**

MURLI DHAR

..... Petitioner

Through: **Mr.Vivek Kumar Tandon, Ms. Rinku
Tiwari and Ms. Perna Tandon, Advs.**

versus

M/S APSARA BISCUITS COMPANY

..... Respondent

Through:

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Date of Decision: 16th November, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CM APPL.30550/2022 (exemption)

Exemption is allowed subject to all just exceptions.

W.P.(C) 10568/2022

1. The present petition has been filed for challenging the order dated 9th December, 2021 and 20th April, 2022.
2. The facts required for the adjudication of the present matter can be recapitulated very briefly. In LIR No. 3887/2016 the petitioner's claim was rejected by the learned Labour Court vide order dated 15th April,

2019 on the ground that the petitioner-workman had failed to lead the evidence.

3. This was challenged by the petitioner-workman vide W.P.(C) No. 8487/2019. This Court vide order dated 14th January, 2020 *inter alia* held as under;

“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.”

4. Learned counsel for the petitioner has invited the attention of this Court to all the order sheets to the proceedings which have taken place subsequent to this. It is pertinent to mention here that in March, 2020, the functioning of the Court had become limited due to Covid -19 pandemic.
5. Learned counsel submits that though, the affidavit of the petitioner-workman had already been filed however in pursuant to the order dated 8th January, 2021, the petitioner-workman had filed another affidavit. It

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has further been submitted that subsequently on 25th February, 2021, an application under Order VII Rule 14 (3) CPC was also moved for taking on record the postal receipt of the legal notice and copy of ESI Card.

6. Learned counsel for the petitioner submits that he would be satisfied if the affidavit already filed by him dated 30th March, 2017 is considered by the learned Labour Court and petitioner-workman may be given an opportunity to lead the evidence on this behalf.
7. In view of the submissions of learned counsel for the petitioner, learned Labour Court is directed to afford two more opportunities to the petitioner-workman to lead his evidence on the basis of affidavit filed dated 30th March, 2017 which is already on the record. Needless to say that there is no interference in the order of the learned Labour Court dated 9th December, 2021 vide which the application under Order VII Rule 14 (3) CPC has been dismissed.
8. The learned Labour Court shall also not take into account the fresh affidavit filed by the petitioner-workman pursuant to the order dated 8th January, 2021.
9. With these observations, the petition along with pending application stands disposed of.

DINESH KUMAR SHARMA, J

NOVEMBER 16, 2022

Pallavi