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

+ W.P.(C) 12899/2022

M/S P. M. K VASTARA OVERSEAS PVT. LTD. Petitioner

Through: Mr. Sumit Kumar, Advocate.

versus

OFFICE OF THE JOINT LABOUR COMMISSIONER (DISTT.-
SOUTH) AND ANR Respondent

Through: Ms. Sanjana Nangia, Advocate for
Mr. Sameer Vashisht, ASC, Civil,
GNCTD.

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Date of Decision: 06th September, 2022.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. Present writ petition has been filed challenging the Award dated 13.08.2018 and the order dated 05.08.2019. It has been submitted that the learned Labour Court in ID No.2700/16 titled as Sh. *Iqbal Ahmad vs. M/s. PMK Vastra Overseas Pvt. Ltd.* has passed an ex-parte Award dated 13.08.2018, whereby it was *inter alia* held that service of the claimant/workman was terminated illegally without following the due provisions of law and thus the claimant/workman was held entitled to the relief of reinstatement with full back wages along with continuity of services



and all other consequential benefits. Subsequent to this, the petitioner/management moved an application for setting aside the ex-parte order.

2. Learned counsel for the petitioner submits that this application was allowed by the learned Labour Court subject to the deposit of 100% awarded amount. However, the petitioner/management failed to deposit the amount, as directed by order dated 21.05.2019 and the application under Order IX Rule 13 CPC moved on behalf of petitioner/management for setting aside the ex-parte order was dismissed for non-prosecution vide order dated 05.08.2019.

3. Learned counsel for the petitioner submits that earlier the petitioner could not invoke jurisdiction of this Court on account of COVID-19 and continued ill health of the petitioner.

4. However, I consider that there is no substance in the averments advanced by the learned counsel for the petitioner. The Award under challenge is dated 13.08.2018. The order regarding deposit of 100% amount for setting aside ex-parte order was passed on 21.05.2019 and the application under Order IX Rule 13 CPC moved on behalf of the petitioner/management was dismissed for non-prosecution vide order dated 05.08.2019. The medical record of the petitioner that has been placed on record is of March 2021, which shows that the petitioner was admitted in hospital on 05.03.2021 and was discharged on 11.03.2021. There is no other medical record of the petitioner before this period or thereafter. The COVID-19 effect also started taking place in March 2020.



5. Learned counsel for the respondent No.1 has also submitted that no ground has been made out by the learned counsel for the petitioner for delay in approaching this Court.

6. Though the Courts have been liberal in condoning the delay. However, at the same time, the petitioner/management cannot be allowed to invoke the jurisdiction of this Court at their leisure. The Industrial Disputes Act, 1947 is a piece of beneficial legislation and has been made to protect the interest of the workman. The petitioner/management did not appear at the first instance and after around 9 months moved an application for setting aside the order and did not even comply with the order passed by the learned Labour Court.

7. At this stage, learned counsel for the petitioner submits that the petitioner shall deposit the entire amount, as directed by the learned Trial Court, vide order dated 21.05.2019, with the learned Labour Court and thereafter the ex-parte award may be set aside and the petitioner may be given an opportunity to contest the proceedings.

8. In view of the submissions made, let the entire amount of Rs.6,52,116/-, as directed by the learned Trial Court, vide order dated 21.05.2019, be deposited with the learned Labour Court within 8 weeks. Upon depositing the amount with the learned Labour Court, the ex-parte order shall be set aside. Learned Labour Court shall proceed with the matter in accordance with law. In case the petitioner fails to deposit the amount, the respondent/workman shall be at liberty to file an execution petition for implementation of the Award.



NEUTRAL CITATION NO: 2022/DHC/003508

9. The recovery proceedings shall not be executed against the petitioner for the period of 8 weeks from today.
10. With these observations, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

SEPTEMBER 06, 2022

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