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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3030/2023 & CM APPL. No. 11782/2023**

M/S BATA INDIA LTD.

..... Petitioner

Through: Mr.Anil Bhat, Mr.Krishna Kumar
Pandey and Mr.Vivek P. Gupta,
Advocates

versus

SH. RAMESH KUMAR DHAWAN

..... Respondent

Through: Mr.Kanishk Ahuja and Ms.Neha
Bhardwaj,Advocates (DHCLSC)

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

21.05.2024

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1. Learned counsel appearing on behalf of the petitioner submitted that the learned Labour Court *vide* order dated 19th December, 2022 whilst denying to decide the issue No.2 and 3 directed, that the issue no. 1 which is with respect to the maintainability of the claim for pendency of application of approval before the Industrial Disputes Tribunal made by the workman, be decided first. In support of his submission, the learned counsel appearing on behalf of the petitioner has placed reliance on the relevant paragraph of the impugned order, which reads to the effect:

“ It is well settled law that legal and fair enquiry before termination of service is required to be treated as preliminary issue, however, since examination-in-chief of WW1 Shri Ramesh Kumar Dhawan has been recorded on 11.07.2019 whereas onus of issue No.1 in respect of maintainability of claim in view of pendency of



application for approval before Industrial Disputes Tribunal has been placed upon the workman so cross-examination of workman is required to be recorded before leading evidence upon issue No.3.”

2. Learned counsel appearing on behalf of respondent vehemently opposed the averments made by the learned counsel for the petitioner submitting to the effect that the learned Labour Court in terms of the deposition made by WW 1 i.e. Sh Ramesh Kumar Dhawan recorded on 11th December, 2019 directed only to decide the issue of maintainability. It is further submitted that apart from deciding the issue No.1, i.e., on the maintainability, there are no directions or orders to not decide the issue no. 3 or decide first the issue no. 2.

3. Heard the learned counsel appearing on behalf of the parties.

4. Learned counsel appearing on behalf of the petitioner, at this juncture, fairly conceded that the instant petition may be remanded back to the Labour Court to decide the issue no. 1 on the claim of the workman and the learned Labour Court be also directed to decide issues no.2 and 3 after deciding the issue on maintainability.

5. In view of the innocuous prayer made by the learned counsel appearing on behalf of the petitioner, i.e., the entire claim may be decided by the Labour Court in accordance with law after deciding the issue no. 1 on maintainability of the industrial dispute as claimed by the petitioner herein, this Court is inclined to remand back the matter to the Labour Court with directions to decide all the issues expeditiously in accordance with law after deciding the issue on maintainability without giving any unnecessary adjournment to either of the parties. Ordered accordingly.



In view of the above facts and circumstances, the instant appeal along with pending application, if any, stands disposed of.

CHANDRA DHARI SINGH, J

MAY 21, 2024

rk/sv/da

[Click here to check corrigendum, if any](#)