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

+ **W.P.(C) 1889/2006**

MANGT. OF BIRLA TEXTILE MILLS

..... Petitioner

Through: Dr.M.Y.Khan with Ms. Manisha Gupta, Mr. Bhupendra Kumar Sharma, Mr. Dileep Singh, Ms. Bhavya Srivastava and Mr. Lokendra Kumar Sharma, Advocates.

versus

SECRETARY LABOUR & ANR.

..... Respondents

Through: Mr. H.K. Chaturvedi, Ms. Anjali Chaturvedi, Mr. Sagar Chaturvedi, Ms. Megha Chaturvedi and Mr. Ramaditya Jadon, Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

30.04.2024

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1. The present petition has been filed under Article 226 & 227 of the Constitution of India seeking following reliefs:

i) *issue a writ of certiorari or any other appropriate writ, order or directions for quashing the impugned order dated 16.02.2005 passed by the Ld. Industrial Tribunal in the O.P. No. 31 of 1961 which is based on the judgment which is under challenged in the LPA No.610 of 2005 and also for quashing the impugned award dated 30.07.2005 passed by the Ld. Labour Court-XII in the I.D. No. 454 of 1992 (New No. 904 of 2004) because the Ld. Labour Court has adopted the impugned order passed in O.P. No. 31 of 1991.*



ii) *pass any other or further order or direction as this Hon'ble Court may deem fit and proper under the facts and circumstances of this case.*

2. The learned counsel appearing on behalf of the petitioner submitted that the learned Labour Court exceeded its jurisdiction by examining the evidence, therefore, the impugned award suffers from illegality.

3. It is submitted that the learned Court below erred in not appreciating that the pleadings, documents and evidence of the parties were on record, hence, non-referral to same amounts to error on law and therefore, the learned counsel appearing on behalf of the petitioner submitted that the present petition be allowed and impugned award may be set aside.

4. *Per Contra*, the learned counsel appearing on behalf of the respondent workman vehemently opposed the present petition submitting to the effect that the learned Labour Court has rightly rejected the approval application filed by the petitioner under Section 33(2)(b) of the Industrial Disputes Act, 1947 ('ID Act' hereinafter) by relying upon the decision given by the Hon'ble Supreme Court in ***Jaipur Zila Sahakari Bhoomi Vikash Bank Ltd. V. Ram Gopal Sharma; (2002) 2 SCC 244***, whereby, the Hon'ble Court had issued directions for closure compensation to the workman employed in such entities.

5. Therefore, the learned counsel appearing on behalf of the respondent workman submitted that the present petition, being gross abuse of the process of law is liable to be dismissed.

6. Heard the learned counsel appearing on behalf of the parties and perused the material placed on record as well as gone through the impugned order passed by the learned Tribunal.



7. Upon a perusal of the above, it is evident that the petitioner had terminated the respondent workman without following the mandate of the Statutory Provisions of Section 33(2)(b) of the Industrial Disputes Act, 1947.

8. It is also made out that the learned Court below recorded the non-challenge to the testimonies of the workman, therefore, establishing the fact that the respondent workman was employed with the petitioner entity.

9. Therefore, after taking into account the facts and circumstances of the case as well keeping in mind the ratio of the judgment of the Hon'ble Supreme Court in ***Jaipur Zila Sahakari Bhoomi Vikash Bank Ltd. V. Ram Gopal Sharma (supra)*** the Tribunal has reached the conclusion that the termination order passed by the petitioner was contrary to the ratio of the said judgment, whereby, the Hon'ble Supreme Court had laid down the directions for grant of closure compensation to the workman.

10. In view of the above, I do not find any reason to interfere with the impugned order passed by the Tribunal, therefore, the present petition being devoid of any merit is dismissed.

CHANDRA DHARI SINGH, J

APRIL 30, 2024
RK/SV/AV

Click here to check corrigendum, if any