



2025:DHC:802



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

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Date of Decision: 10.02.2025+ **W.P.(C) 1618/2025 & CM APPL. 7901/2025****CHANDER BAHADUR**

.....Petitioner

Through: Ms. Latika Choudhury, Advocate

versus

BISHAMBER SAHAI AND SONS AND ORS

.....Respondents

Through: None.

CORAM: JUSTICE GIRISH KATHPALIA**J U D G M E N T (ORAL)**

1. The petitioner workman has assailed order dated 26.10.2024 passed by the Labour Court, Rouse Avenue Court Complex, Delhi whereby an application under Section 11 of the Industrial Disputes Act read with Section 151 CPC to set aside the order dated 11.03.2019 was dismissed. I have heard learned counsel for petitioner, but failed to convince myself to even issue notice to the other side.

2. It appears that initially the petitioner workman filed a Statement of Claim under Section 2A of the Industrial Disputes Act in which the respondent management had entered appearance and filed an application under Section 10 read with Section 151 CPC on the ground that another

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GIRISH KATHPALIA

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claim of the present petitioner was already pending before the Labour Commissioner under the Employees Compensation Act. At that stage, the authorized representative of the petitioner workman sought permission to withdraw the Statement of Claim and vide order dated 11.03.2019, the claim petition was dismissed as withdrawn. Thereafter, on 01.02.2020 the petitioner workman filed an application for restoration of the claim on the ground that the statement of withdrawal was made by his authorized representative without instructions. The learned Labour Court dismissed the application on the ground that it had no jurisdiction to conduct an enquiry into the alleged conspiracy qua consent of the petitioner workman.

3. Learned counsel for petitioner workman submits that the withdrawal of the claim statement needs to be set aside keeping in mind the unfortunate circumstances of the petitioner workman, as he is visually challenged. In response to a specific query, learned counsel for petitioner submits that no action has been taken by the petitioner workman against his authorized representative alleging that the withdrawal statement was without consent.

4. Ofcourse, the court must keep in mind the welfare of the workman while dealing with such proceedings. At the same time, I am unable to ignore certain vital aspects.

5. As regards the petitioner workman being visually handicapped, I examined his Statement of Claim. Keeping in mind the nature and scope of



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these proceedings, I would refrain myself from commenting on the same. But suffice it to record that the court cannot decide matters only on sympathy.

6. There is nothing on record to explain as to why for almost one year the petitioner workman remained silent. The claim statement was withdrawn on 11.03.2019 but the application for restoration was filed on 01.02.2020.

7. The authorized representative of the petitioner workman was a labour union leader, who made the statement of withdrawal in view of the admitted position that for same cause of action, the petitioner workman had already initiated proceedings before an authority of competent jurisdiction, which proceedings were pending. In such circumstances, I find it difficult to believe that the authorized representative, against whom the petitioner workman has admittedly not taken any action till date, made the statement of withdrawal before the Labour Court without instructions, much less in conspiracy with anyone.

8. I find the present petition devoid of merit, so the same is dismissed. The accompanying application also stands dismissed.

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GIRISH KATHPALIA, J.

FEBRUARY 10, 2025/rk

Click here to check corrigendum, if any

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