



\$~10

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 13245/2019**

SH. KRISHNA PRATAP SINGHPetitioner
Through: **Mr. Chirayu Jain and Ms. Raksha Awasya, Advocates**

Versus

RED ROSES PUBLIC SCHOOL AND ANR.Respondents
Through: **Ms. Alka Srivastava, Advocate for respondent No.1**
Ms. Amrita Mishra, Mr. Ravi Mishra and Ms. Aryaa Pandey, Advocates for respondent Nos.2 and 3

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
21.01.2026

%

1. By way of present writ petition filed under Articles 226 and 227 of the Constitution of India, the petitioner seeks quashing/setting aside of the order dated 05.07.2019 and Award dated 22.10.2018 passed by the learned Presiding Officer, Labour Court, in MISC DJ No.125 of 2019 and New M.No. 884-17 respectively.
2. Vide the impugned Award dated 22.10.2018, the learned Labour Court noted that on receipt of the Reference from the Labour Department a copy thereof was sent to workman directing him to file his statement of claim. Despite opportunities being granted, no statement of claim could be filed resulting in the passing of a 'No Dispute Award'. Learned Labour Court further noted that even earlier a 'No Dispute Award' was passed on



04.08.2017 which was subsequently set aside on an application filed by the workman. Thereafter, the workman again preferred an application seeking setting aside of the impugned 'No Dispute Award'. However, the learned Labour Court taking note of the previous conduct of the workman, did not find merit in the said application and dismissed the same.

3. Learned Counsel for the petitioner/workman contended that petitioner/workman had joined as a Security Guard on 01.07.2015 at Red Roses Public School, i.e. respondent/management No.1. He discharged his daily duties to the satisfaction of the respondent and prior to the termination of his services on 07.06.2016, he was drawing salary of Rs.15,000/- per month. It is further contended that the termination was challenged on the ground that no reasons were assigned for it and no compensation was offered. On an industrial disputes being raised, the Govt. of NCT of Delhi referred the dispute on 24.01.2017 with the following terms of reference :

“Whether the services of Sh. Krishna Pratap Singh S/o Sh. Sharda Baksh Singh, age 43 years(Mobile no. 7053433009) has been terminated illegally and/or unjustifiably by the management and if so, to what relief is he entitled and what directions are necessary in this respect?”

4. Learned counsel for the respondent submits that the workman was granted repeated opportunities to file the Statement of Claim; however, he failed to do so on more than one occasion, subsequent to which the 'No Dispute Award' was passed.

5. It is claimed by the petitioner that though notice was served, however, he on his own went to the Labour Court to enquire about the Reference but inadvertently noted an incorrect date. The earlier dismissal was set aside and the matter was listed for filing of statement of claim. Though the petitioner



had entrusted the matter to his counsel, who failed to appear, resulting in dismissal of the Reference for the second time. It is noted that Rule 22 of the Industrial Disputes (Central) Rules, 1957 provides that if a party fails to attend or to be represented, the Labour Court/Tribunal may proceed as if the party had duly attended or had been represented. Concededly, in the present case the impugned Award has not been rendered on the merits of the case. Indeed, the petitioner has erred twice, however, considering the beneficial nature of the Legislation, this Court finds the explanation tendered by the petitioner to be sufficient for restoring the Reference before the Labour Court.

6. This Court is further guided by the decision dated 28.02.2011 passed by the Division Bench of High Court of Himachal Pradesh titled Yadvinder Sharma v. State of H.P.¹ and others wherein it has been held as under :-

4.Settlement of industrial dispute being the main object behind the Industrial Disputes Act, 1947, the provisions as extracted above would show that once an industrial dispute which could not be settled in conciliation, the same is referred to the Labour Court or the Industrial Tribunal, as the case may be, for adjudication. The purpose of adjudication is determination of the industrial dispute and the same is expressed in the form of an Award. Therefore, once a Reference under Section 10 of the Industrial Disputes Act is made to the Labour court or the Industrial Tribunal, the said forum is to determine the dispute or question referred to it by appropriate adjudication. The Government along with the Reference also forwards the relevant materials also to the Court or the Tribunal. Thus, once a Reference is made, the Court or the Tribunal has to decide the same on the basis of the materials available on record. Whether any party to the dispute cooperates or not is immaterial. Hence, there arises no question of dismissal of the Reference for default.

¹ CWP No. 683/2011



The Reference can be disposed of only by passing an Award whereby the question referred to it has been determined by the Labour Court or the Tribunal by passing an Award. The Presiding Officer, on the basis of the materials available on record should consider the matter on merits and enter the findings.

xxx

6. A Division Bench of the Punjab and Haryana High Court had occasion to consider the question as to whether the Labour Court is free to dismiss a Reference for non-prosecution by the decision in K.K. Rattan vs. Presiding Officer, Labour Court and others, reported in High Court, Punjab and Haryana 378. It has been held that the Labour Court has no power to dismiss a Reference for non-prosecution. It is bound to adjudicate on merits even if the workman is absent. To quote:

“When a dispute is referred to the Tribunal, it has to decide it on merits. There is no power conferred on it to dismiss a reference for non-prosecution. It is the duty of the Labour Court to consider the claim statement of the workman and the written statement of the management and any other record before it and answer the point referred to it on merits.”

7. At this stage, learned counsel for the petitioner undertakes that the statement of claim would be filed without any delay.
8. Considering the aforesaid legal position and in view of the undertaking given on behalf of the petitioner, the impugned Award is set aside and Reference is directed to be listed before the Labour Court on 06.02.2026 at the first instance.
9. Writ petition is allowed and disposed of in the above terms.

MANOJ KUMAR OHRI, J

JANUARY 21, 2026

ga