

* IN THE HIGH COURT OF DELHI AT NEW DELHI

WP (C) No.2223/2011

Date of Decision: April 04, 2011

RAJ SINGH Petitioner
through Mr. Anuj Aggarwal, Advocate

versus

FLOOD CONTROL AND DRAINAGE DEPT. Respondent
through Mr. Pankaj Batra, Advocate

CORAM:
HON'BLE MISS JUSTICE REKHA SHARMA

1. Whether the reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether the judgment should be reported in the 'Digest'?

REKHA SHARMA, J. (ORAL)

The challenge in this writ-petition is to an award of the Labour Court dated May 21, 2009. The said award is a sequel to an earlier award of the Labour Court dated April 13, 1998. In that award, the Labour Court had held that the petitioner herein had not completed 240 days of service and hence, he could not claim the benefit under Section 25F or the other provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the "Act"). Consequently, the claim of the petitioner for reinstatement was rejected. Aggrieved by the award, the petitioner filed a writ-petition in this Court,

contending that even if the workman had not put in 240 days of service and as such, was not entitled to the benefit of Section 25F of the Act, he did enjoy other industrial rights, such as, recourse to Section 25G & 25H of the Act. This Court by order dated August 27, 2003 accepted the contention of the petitioner and accordingly remanded the case back to the Labour Court, with a direction to consider the matter afresh on the question, whether the petitioner was entitled to any relief under the other provisions of the Act apart from Section 25F. Consequent to the remand, the Labour Court considered the matter afresh, but dismissed the claim of the petitioner holding that he was not entitled to relief under any of the provisions of the Act. Hence, the present writ-petition.

It is submitted that the petitioner had contended before the Labour Court that the respondent had contravened the provisions of Sections 25G & 25H of the Act, but the Labour Court without any discussion or reasoning held that the said Sections were not applicable. The Labour Court merely stated that Section 25G provides for procedure for retrenchment and Section 25H provides for re-employment of the retrenched workman. Hence, it is contended that the impugned award is liable to be set-aside and the matter once again needs to be remanded back to the Labour Court, with a direction to consider the same afresh and pass a reasoned order.

The learned counsel for the respondent who is present in Court on advance service, contends that Sections 25G & 25H are not applicable to the case of the petitioner-workman, as he was only a daily wager and unless such a daily wager has completed mandatory period of service as laid down in Section 25B of the Act, he does not become entitled to benefit under Sections 25G & 25H of the Act.

On going through the impugned award, I do feel that the Labour Court without any discussion has held that Sections 25G & 25H of the Act are not applicable to the case of the petitioner. The order discloses no reason as to why the said Sections are not applicable.

For what has been noticed above but without going into the rival submissions made before me, I hereby set-aside the impugned award dated May 21, 2009 and consequently, remand the case back to the Labour Court, with a direction to dispose of the same afresh with a reasoned order. The parties are directed to appear before the concerned Labour Court on April 25, 2011.

With this direction, the writ-petition is disposed of.

A copy of this order be given *Dasti* to learned counsels for the parties.

REKHA SHARMA, J.

APRIL 04, 2011
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