



2026:DHC:7717



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 08th September, 2026***# **CNR No. DLHC011108432008**+ **W.P.(C) 5584/2008**

O.P. ARORA

.....Petitioner

Through: Mr. C.K. Chaturvedi, Adv.
through V.C.

versus

KILLICK NIXON LTD

.....Respondent

Through: Mr. Javed Ahmad, Adv.

CORAM:**HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present petition is filed under Article 226/227 of the Constitution of India assailing order dated 03.08.2005 passed by the learned Labour Court in I.D. No. 347/03, order dated 23.09.2006 passed by the learned Labour Court in I.D. No. 347/03 and order dated 08.01.2008 passed by the learned Labour Court in D.I.D No. 44/07, and praying to remand back the dispute for adjudication on merits.

2. Briefly stated, the petitioner was appointed as a General Duty Clerk by the respondent w.e.f. 14.12.1965. The petitioner was served with a charge sheet dated 29.09.1994 by the respondent management.

3. The workman was suspended *vide* suspension order dated 05.01.1995. Disciplinary proceedings were thereafter conducted against the petitioner and the petitioner was dismissed from service *vide* order dated 16.05.2002. The petitioner, thereafter, filed a claim petition before the appropriate government challenging the aforesaid order of



dismissal. The appropriate government *vide* order dated 14.08.2003 made the following reference for adjudication:-

“whether the dismissal of Sh. O.P. Arora S/o Late Gobind Ram by the management is illegal and/or unjustified and if so, to what relief is he entitled and what directions are necessary in this respect?”

4. The petitioner filed his statement of claim before the learned Labour Court, pursuant to which the respondent filed its written statement contending that the petitioner had not pleaded anything with regard to the terms of reference and that the claim was, therefore, not maintainable. Despite being granted several opportunities, the petitioner failed to file his rejoinder. The learned Labour Court, *vide* order dated 28.07.2005, framed the following preliminary issue:-

“Whether the claim of the workman is maintainable in the present form? If so, its effect? OPM”

5. The petitioner failed to appear before the learned Labour Court on 28.07.2005, whereupon the learned Labour Court proceeded to decide the aforesaid preliminary issue and passed the award dated 03.08.2005. The learned Labour Court observed that the petitioner’s statement of claim merely sought recovery of certain amounts from the management and contained no averment challenging his dismissal as illegal and/or unjustified. It accordingly held that the statement of claim did not correspond to the terms of reference and was not maintainable in its existing form. The petitioner was consequently held not entitled to any relief.

6. The petitioner thereafter filed an application seeking recall of the aforesaid award, contending that his non-appearance was due to severe



backache and that he had inadvertently noted the next date of hearing as 28.08.2005 instead of 28.07.2005. However, the same was dismissed *vide* order dated 23.09.2006.

7. The petitioner thereafter filed a fresh statement of claim before the learned Labour Court on 15.11.2006. The management filed an application under Section 17 of the Industrial Disputes Act, 1947, seeking dismissal of the claim at the threshold. The learned Labour Court observed that, although the earlier award dated 03.08.2005 had rejected the petitioner's claim on the technical ground of its non-maintainability in the existing form, the said award had been published on 24.04.2006 and had become enforceable on 24.05.2006. It accordingly held that, in view of Section 17(2) of the Industrial Disputes Act, 1947, the Labour Court had become *functus officio* and could not entertain the fresh claim, and rejected the same *vide* order dated 08.01.2008.

8. Aggrieved thereby, the present petition has been filed.

9. Learned counsel for the petitioner submits that, as the substantive dispute concerning the petitioner's dismissal has never been adjudicated on merits, the impugned orders deserve to be set aside and the matter be remanded to the learned Labour Court for adjudication on merits.

10. He submits that the statement of claim filed before the Labour Court was only a short claim confined to incidental reliefs, since the petitioner had already sought reinstatement with consequential benefits while raising the dispute before the appropriate Government. He submits that the learned Labour Court erred in considering the



statement of claim in isolation and rejecting it merely because it did not contain specific pleadings assailing the dismissal. He submits that, at the highest, any deficiency in the claim was curable and the petitioner ought to have been permitted to amend the same.

11. He also relies upon the judgment of the Hon'ble Apex Court in ***Cooper Engineering Ltd. v. P.P. Mundhe : Civil Appeal No. 1716 of 1969*** and submits that the learned Labour Court ought to have first considered the validity of the domestic enquiry at the outset instead of framing a different issue.

12. *Per Contra*, the learned counsel for the respondent vehemently opposes the present petition.

13. At the outset, it is necessary to note that the scope of interference under Articles 226 and 227 of the Constitution of India with an Award passed by the Labour Court is limited. High Court does not sit as a Court of appeal over findings of fact rendered by the Labour Court. Interference is warranted only where the findings are perverse, based on no evidence, suffer from patent illegality, or disclose a jurisdictional error.

14. As regards the foundational issue of the dispute in the present matter having never been decided on merits, this Court does not approve of the manner in which the petitioner proceeded before the learned Labour Court.

15. Insofar as the award dated 03.08.2005 is concerned, the statement of claim filed by the petitioner did not contain any averment challenging his dismissal as illegal or unjustified. The management had raised an objection to the maintainability of the claim of the petitioner in its



written statement. The petitioner was thereafter granted opportunities to file his rejoinder on 28.02.2005 and 15.04.2005. On 15.04.2005, the learned Labour Court specifically directed that no further adjournment would be granted for filing the rejoinder. The matter was thereafter fixed for 14.07.2005 for filing of the rejoinder, production of documents, admission/denial and framing of issues. The petitioner, however, did not file the rejoinder. Thereafter, on 28.07.2005, the petitioner remained absent when the matter was taken up, whereupon the learned Labour Court framed the preliminary issue as to whether the claim was maintainable in the present form and proceeded to hear arguments thereon. *Vide* award dated 03.08.2005, the learned Labour Court held that the claim, as filed, did not raise the dispute referred for adjudication and was therefore not maintainable in the present form.

16. Learned counsel for the petitioner has submitted that the statement of claim was only a short claim for relief, as the petitioner had already sought reinstatement with consequential benefits before the appropriate Government. However, even if the petitioner had raised such a dispute before the appropriate Government, the proceedings before the learned Labour Court had to be prosecuted on the basis of the pleadings before it. The petitioner was aware of the objection raised by the management and was afforded repeated opportunities to respond to the same. His failure to do so cannot be construed as denial of an opportunity by the learned Labour Court.

17. The petitioner's further submission that any deficiency in the statement of claim was curable also does not warrant interference with the award dated 03.08.2005. Even assuming that the defect in the



pleadings could have been cured, the petitioner was required to take appropriate steps before the learned Labour Court. Instead, despite the opportunities granted on 28.02.2005 and 15.04.2005, and the specific direction dated 15.04.2005 that no further adjournment would be granted, the petitioner failed to file the rejoinder and thereafter remained absent on 28.07.2005. The consequence which followed under the award dated 03.08.2005 was from the petitioner's own failure to diligently pursue the proceedings. Thus, the order dated 03.08.2005 does not suffer from any perversity warranting interference of this Court.

18. The petitioner thereafter sought recall of the award dated 03.08.2005, which application came to be rejected by the learned Labour Court vide order dated 23.09.2006. The learned Labour Court found the application for recall to be, in substance, an attempt to seek review of the award. The order dated 23.09.2006 is duly reasoned and does not disclose any perversity or jurisdictional error warranting interference.

19. Thereafter, the fresh statement of claim filed by the petitioner was rejected by the learned Labour Court vide order dated 08.01.2008. The learned Labour Court noticed that the earlier award dated 03.08.2005 had been published on 24.04.2006 and had become enforceable on 24.05.2006, and consequently held that it had become *functus officio* and could not entertain a fresh claim in respect of the same dispute. The order dated 08.01.2008 also does not disclose any patent illegality or jurisdictional error warranting interference.

20. This Court is conscious of the fact that the petitioner's challenge



to the legality of his dismissal has not ultimately been adjudicated on merits. However, the charges against the petitioner date back to 1994, the petitioner was dismissed from service on 16.05.2002, the award dated 03.08.2005 brought the proceedings before the learned Labour Court to an end, and the present petition has remained pending for more than two decades thereafter. At this stage, remanding the matter to the learned Labour Court for a fresh adjudication would necessarily require reopening a dispute arising out of events more than three decades old.

21. This Court has perused the enquiry proceedings preceding the dismissal of the petitioner. The aforesaid, in the considered view of this Court, does not disclose any violation of the principles of natural justice. The petitioner was repeatedly afforded an opportunity to participate in the enquiry, to cross-examine the management witnesses and to lead evidence in his defence. More importantly, even after the proceedings had earlier proceeded in his absence, the Inquiry Officer, upon the enquiry being resumed in the year 2001, afforded the petitioner a fresh opportunity to participate from the relevant stage and supplied him the earlier proceedings and documents. The petitioner was thereafter granted several further adjournments and opportunities, including a specific final opportunity to cross-examine the management witnesses and produce his defence. The enquiry was thus not concluded without affording the petitioner an opportunity of hearing; rather, the record indicates that the opportunities afforded to him were not availed of. In the opinion of this Court, the domestic enquiry was fair and proper, and in accordance with the principles of natural justice. There is, therefore, no reason to remand the matter for adjudication on merits



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at this stage.

22. In view of the above, this Court is of the opinion that no grounds have been made out in the present petition warranting exercise of extraordinary jurisdiction under Article 226 of the Constitution of India.

23. Accordingly, the present petition is dismissed.

24. Pending applications (if any) also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 8, 2026

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