



2025:DHC:7725-DB



\$~19

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

Date of decision: 03.09.2025

+ W.P.(C) 10491/2020
KSHETRAPAL SINGH KUSHWAHAPetitioner

Through: Mr.Karanjot Singh Mainee,
Ms.Shreya Gupta, Mr.Sahil
Chopra and Ms.Manya
Kaushik, Advs.

versus

UNION OF INDIA & ORS.Respondents
Through: Mr.Farman Ali, SPC with
Ms.Usha Jannal, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed, challenging the Order dated 19.12.2018 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'Tribunal') in O.A. No. 1014/2014, titled *Sh. Kshetrapal Singh Kushwah v. Union of India & Ors.*, disposing of the OA filed by the petitioner herein based merely on the information given and the claim of the respondents that the Award dated 27.04.2004 passed by the learned Central Government Industrial Tribunal cum Labour Court, New Delhi in I.D. No.12/1992, titled *Shri Dan Singh & Anr. v. Deputy*



C.S.T.E. (Construction), and the Judgment dated 09.05.2012 of this Court in W.P.(C) 14768/2004, titled *Deputy C.S.T.E. (Const.) v. Kshetrapal Singh Kushwaha*, has been complied with.

2. The petition also challenges the Order dated 20.03.2019 passed by the learned Tribunal in RA. No. 80/2019 in OA No. 1014/2014, whereby the learned Tribunal has dismissed the review filed by the petitioner against the Impugned Order dated 19.12.2018.

3. We may, at the outset, note that this Court, in its Orders dated 23.03.2021 and 13.04.2021, had expressed a doubt on the very maintainability of the OA before the learned Tribunal inasmuch as the petitioner had an alternate remedy under Section 33C(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'ID Act').

4. The learned counsel for the petitioner vehemently submits that the petitioner has been pursuing his remedies before the learned Tribunal on a cause of action which has arisen post the passing of the Industrial Award as also the Judgment of this Court. He further submits that the OA had been pending adjudication before the learned Tribunal since 2014, and no objection against its maintainability had been taken by the respondents.

5. He submits that the Impugned Order has been passed only on the say-so of the respondents. As the learned counsel for the petitioner was not present before the learned Tribunal on the date of hearing, the petitioner even filed a Review Application, being R.A. No.80/2019, before the learned Tribunal seeking recall of the Order dated 19.12.2018, however, the same had been dismissed by the learned Tribunal *vide* its Impugned Order dated 20.03.2019 as being not



maintainable.

6. On the other hand, the learned counsel for the respondents submits that the Award as also the Judgment of this Court had been duly complied with by the respondents and consequential benefits released to the petitioner. He further submits that, in terms of Section 33C(1) of the ID Act, the remedy of the petitioner was to approach the learned CGIT rather than filing a fresh OA before the learned Tribunal. He submits that, therefore, the OA was not maintainable before the learned Tribunal.

7. We have considered the submissions made by the learned counsels for the parties.

8. The learned Tribunal, in its Impugned Order dated 19.12.2018, merely on a submission of the respondents and the fact that some amount, in purported compliance with the Industrial Award, had been paid to the petitioner, and in absence of the learned counsel for the petitioner, records the satisfaction of the learned Tribunal on the due implementation of the Award as also the Judgment of this Court.

9. As noted hereinabove, it is the case of the petitioner that the claim of the petitioner arises post the passing of the Award as also the Judgment of this Court and is not confined to mere due implementation thereof. He further submits that even the Award had not been fully complied with, however, this would not oust the jurisdiction of the learned Tribunal to adjudicate the OA.

10. Be that as it may, these questions have not been considered by the learned Tribunal. We, therefore, deem it appropriate to set aside the Impugned Orders dated 19.12.2018 and 20.03.2019, and remand

