2024:DHC:1268

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

% **Date of order: 1st February, 2024**

\+ W.P.(C) 7161/2003 & CM APPL. 3395/2021

VALLABHBHAI PATEL CHEST INSTITUTE ..... Petitioner

Through: Mr. M.K.Singh, Advocate

versus

NISHIKESH TYAGI & ANOTHER ..... Respondent

Through: Mr. Jawahar Raja, Ms. Meghna De, Ms. L.Gangmei and Ms. Aditi, Advocates

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:

> *"1. Record of the Industrial Dispute No. 266/92 (New No. 736/95) may kindly be called for and after examining the same the impugned award may be quashed and set aside.*
> *2. That it may please be declared that respondent No. 1 is not entitled for any relief much less the relief granted by impugned award.*
> *3. Any other further order which the Hon'ble Court deems fit and proper may kindly be passed"*

2. The petitioner ('petitioner Hospital' hereinafter) is an institute which is wholly financed by the Ministry of Health and Family Welfare and is primarily engaged in research work in the field of chest and allied diseases besides providing medicines and other medical facilities.

3. The respondent ('respondent workman' hereinafter) was working as a casual and daily wager as a pump operator in the petitioner Hospital since the year 1985 at a last drawn salary of Rs. 1300/- per month on 10th May, 1991, the services of the respondent workman were allegedly terminated illegally.

4. Aggrieved by the alleged illegal termination, the respondent workman raised an industrial dispute vide the demand notice dated 6th June, 1991. Ultimately, on 20th August, 1992 the above said dispute was referred by the appropriate Government to the Labour Court, Karkardoama, Delhi for adjudication.

5. During the course of proceedings in dispute bearing no. 736/95, the petitioner Hospital had raised the issue of non-maintainability of such a dispute against them as the petitioner Hospital cannot be treated as an industry under the Industrial Disputes Act, 1947 ('ID Act' hereinafter).

6. Subsequent to completion of the proceedings, the learned Labour Court passed an award in favor of the respondent workman *vide* award dated 29th July, 2002 thereby, directing the petitioner Hospital to reinstate the respondent workman along with full back wages and continuity of services.

7. Since the petitioner Hospital had failed to implement the above said award, the respondent workman served the petitioner Hospital with a

demand notice dated 11th September, 2002 seeking implementation of the above said award but to no avail.

8. Subsequently, the respondent workman filed an application under Section 33C(1) of the ID Act for execution of the award and in pursuance of the same, a recovery certificate bearing Certificate no. F.23(953)/02/Imp dated 4th April, 2003 was issued for an amount of Rs. 3,03,554/- for the period of 10th May, 1991 to 30th September, 1992.

9. Aggrieved by the award dated 29th July, 2002, the petitioner Hospital has approached this Court by way of filing the present petition seeking quashing of the same.

10. The learned counsel appearing on behalf of the petitioner Hospital submitted that the learned Labour Court failed to appreciate that the petitioner entity being a Hospital cannot be construed as an industry for the purpose of the ID Act, and therefore, adjudication of the dispute by the learned Labour Court is bad in law.

11. It is submitted that the petitioner Hospital is governed by the Union of India, and same is the appropriate Government for referral of the dispute to the Labour Court, however, the dispute in the instant case was referred by the State Government, therefore, such reference does not hold any position in law.

12. It is submitted that the learned Court did not appreciate the fact that the petitioner Hospital had informed the Union representing the respondent workman about his wilful absence from the work, however, the said fact was denied by the workman during the proceedings before the learned Court

below.

13. It is submitted that the respondent workman has yet not reported for his duty, till the year 2003, and is merely interested in recovering the amount through coercive measures and the same can be evident from the recovery certificate.

14. It is also submitted that the respondent workman failed to prove that he worked for more than 240 days during the last twelve months preceding to the date of his alleged illegal termination, and therefore, the learned Court below erred in directing the reinstatement of the respondent workman.

15. Therefore, in view of the foregoing submissions, it is prayed that the instant petition may be allowed and reliefs be granted as prayed.

16. *Per Contra,* the learned counsel appearing on behalf of the respondent workman vehemently opposed the present petition submitting to the effect that the present petition has been filed after an inordinate delay of 2 years and therefore, the same is liable to be dismissed.

17. It is submitted that the petitioner has not raised any substantial question of law for determination by this Court and therefore, the same may not be allowed.

18. It is submitted that the learned Court below had appreciated the material facts and relied upon the records to direct reinstatement and therefore, there is no illegality or infirmity with the impugned award of the learned Labour Court.

19. It is also submitted that the respondent workman had tried his level best to solve the dispute, however, was compelled to file the statement of

claim once the petitioner Hospital expressed its inability to cooperate.

20. It is further submitted that the witness of the petitioner Hospital, i.e. the Dy. Registrar of the Hospital had admitted on record about non-issuance of any letter to the respondent workman calling upon him to resume his duty.

21. Therefore, in light of the foregoing submissions, the learned counsel appearing on behalf of the respondent submitted that the present petition, being devoid of any merits, is liable to be dismissed.

22. Heard the learned counsel for the parties and perused the records.

23. It is the case of the petitioner Hospital that the learned Labour Court had failed to appreciate the fact that the Hospital cannot be construed as an industry and therefore, adjudication of the dispute between the Hospital and the respondent Workman is bad in law. Furthermore, it has been contended that even if the Hospital is construed as an industry, the referral of the dispute could have only done by the Central Government and not the State Government, therefore, the impugned award is bad in law as the learned Labour Court went beyond the jurisdiction conferred to it.

24. In rival submissions, the respondent workman has opposed the present petition by stating that the settled position of law includes any entity to be an industry if certain metrics are met by the said entity and therefore, the adjudication of the dispute by the learned Court below is not unlawful.

25. Bearing in mind the above, it becomes imperative for this Court to mainly examine two issues, i.e whether referral of the dispute is legally sound or not and secondly, whether the learned Court below rightly held that

the respondent workman had worked in the petitioner Hospital for 240 days preceding the date of termination of his services.

26. At this juncture, this Court deems it fit to reproduce Section 2(j) of the ID Act which defines the term 'industry' in the following manner:

> *.."industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen.."*

27. The definition of the said term as provided in the aforesaid provision makes it clear that an entity shall be construed as an industry if the said entity entails calling services, employment, handicraft or industrial occupation. It is true that the literal interpretation of the said provision does not impart much clarity; rather the burden to interpret the inclusion of the said industry is upon the Courts.

28. The question of what constitutes as an industry has been dealt with by the Hon'ble Supreme Court in a catena of judgments where the tests expounded by the Hon'ble Court prevail as a guiding light to the rest of the Courts while determining a particular entity to be an industry under the ID Act.

29. In ***Bangalore Water Supply & Sewerage Board v. A. Rajappa*, (1978) 2 SCC 213,** the Hon'ble Supreme Court laid down the principles for categorizing an establishment as an industry under the ID Act and held as under:

"***141.*** *Although Section 2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to overreach itself.*

"(a) 'Undertaking' must suffer a contextual and associational shrinkage as explained in Banerji and in this judgment; so also, service, calling and the like. This yields the inference that all organized activity possessing the triple elements in I, although not trade or business, may still be 'industry' provided the nature of the activity, viz. the employer-employee basis, bears resemblance to what we find in trade or business. This takes into the fold of 'industry' undertakings, callings and services, adventures 'analogous to the carrying on the trade or business'. All features, other than the methodology of carrying on the activity viz. in organizing the co-operation between employer and employee, may be dissimilar. It does not matter, if on the employment terms there is analogy."

142. *Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incongruity or outer sense of motivation for or resultant of the economic operations. The ideology of the Act being industrial peace, regulation and resolution of industrial disputes between employer and workmen, the range off this statutory ideology must inform the reach of the statutory definition. Nothing less, nothing more.*

"(a) The consequences are (i) professions, (ii) clubs, (iii) educational institutions, (iv) co-operatives, (v) research institutes, (vi) charitable projects, and (vii) other kindred adventures, if they fulfil the triple tests listed in I, cannot be exempted from the scope of Section 2(j).

(b) A restricted category of professions, clubs, co-operatives and even gurukulas and little research labs, may qualify for exemption if, in simple ventures, substantially and, going by the dominant nature criterion, substantively, no employees are entertained but in minimal matters, marginal employees are

hired without destroying the non-employee character of the unit.

(c) If, in a pious or altruistic mission many employ themselves, free or for small honoraria or like return, mainly drawn by sharing in the purpose or cause, such as lawyers volunteering to run a free legal services clinic or doctors serving in their spare hours in a free medical centre or ashramites working at the bidding of the holiness, divinity or like central personality, and the services are supplied free or at nominal cost and those who serve are not engaged for remuneration or on the basis of master and servant relationship, then, the institution is not an industry even if stray servants, manual or technical, are hired. Such eleemosynary or like undertakings alone are exempt — not other generosity, compassion, developmental passion or project."

143.*The dominant nature test:*

"(a) Where a complex of activities, some of which qualify for exemption, others not, involves employees on the total undertaking, some of whom are not 'workmen' as in the University of Delhi case [University of Delhi v. Ramlfath, (1964) 2 SCR 703 : AIR 1963 SC 1873 : (1963) 2 Lab LJ 335] or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur will be the true test. The whole undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the status.

(b) Notwithstanding the previous clauses, sovereign functions, strictly understood, (alone) qualify for exemption, not the welfare activities or economic adventures undertaken by government or statutory bodies.

(c) Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severable, then they can be considered to come within Section 2(j).

> *(d) Constitutional and competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise may be covered thereby."*
> ***144.*** *We overrule Safdarjung, Solicitors' case, Gymkhana, Delhi University, Dhanrajgirji Hospital and other rulings whose ratio runs counter to the principles enunciated above, and Hospital Mazdoor Sabha is hereby rehabilitated.*"

30. Upon perusal of the above, it is clear that the Hon'ble Court had extensively dealt with the issues concerning inclusion of entities as an industry under the ID Act.

31. It is also made out that the metric laid down in the aforesaid case needs to be made applicable in order to determine the inclusion of an entity as an industry in the ID Act.

32. With regards to inclusion of entities such as hospitals or charitable institutions, the 7 judge bench in the aforesaid case made it amply clear that the said entities can be considered as an industry for adjudication of disputes. The relevant part of the opinion rendered by Justice V.R. Krishna Iyer (*on behalf of himself, Bhagwati and Desai, JJ.*) reads as under:

> ***131.****Hidayatullah, C.J., considered the facts of the appeals, clubbed together there and held that all the three institutions in the bunch of appeals were not industries. Abbreviated reasons were given for the holding in regard to each institution, which we may extract for precise understanding: (SCC pp. 747-48, paras 34, 37 and 38)*
> *"It is obvious that Safdarjung Hospital is not embarked on an economic activity which can be said to be analogous to trade or*

business. There is no evidence that it is more than a place where persons can get treated. This is a part of the functions of Government and the hospital is run as a Department of Government. It cannot, therefore, be said to be an industry.

The Tuberculosis Hospital is not an independent institution. It is a part of the Tuberculosis Association of India. The hospital is wholly charitable and is a research institute. The dominant purpose of the hospital is research and training, but as research and training cannot be given without beds in a hospital, the hospital is run. Treatment is thus a part of research and training. In these circumstances the Tuberculosis Hospital cannot be described as industry.

The objects of the Kurji Holy Family Hospital are entirely charitable. It carries on work of training, research and treatment. Its income is mostly from donations and distribution of surplus as profit is prohibited. It is, therefore, clear that it is not an industry as laid down in the Act."

132. *Even a cursory glance makes it plain that the learned Judge took the view that a place of treatment of patients, run as a department of Government, was not an industry because it was a part of the functions of the Government. We cannot possibly agree that running a hospital, which is a welfare activity and not a sovereign function, cannot be an industry. Likewise, dealing with the Tuberculosis Hospital case the learned Judge held that the hospital was wholly charitable and also was a research institute. Primarily, it was an institution for research and training. Therefore, the Court concluded, the institution could not be described as industry. Non-sequitur. Hospital facility, research products and training services are surely services and hence industry. It is difficult to agree that a hospital is not an industry. In the third case the same factors plus the prohibition of profit are relied on by the Court. We find it difficult to hold that absence of profit, or functions of training and research, take the institution out of the scope of industry.*

133. *Although the facts of the three appeals considered in Safdarjung [Safdarjung Hospital v. Kuldip Singh Sethi, (1970) 1 SCC 735 : (1971) 1 SCR 177 : (1970) 2 LLJ 226] related only to hospitals with research and training component, the Bench went extensively into a survey of the earlier precedents and crystallisation of criteria for designating industries. After stating that trade and business have a wide connotation, Hidayatullah, C.J., took the view that professions must be excluded from the ambit of industry: "A profession ordinarily is an occupation requiring intellectual skill, often coupled with manual skill. Thus a teacher uses purely intellectual skill, while a painter uses both. In any event, they are not engaged in an occupation in which employers and employees cooperate in the production or sale of commodities or arrangement for their production or sale or distribution and their services cannot be described as material services." (SCC p. 743, para 17)*

134. *We are unable to agree with this rationale. It is difficult to understand why a school or a painting institute or a studio which uses the services of employees and renders the service to the community cannot be regarded as an industry. What is more baffling is the subsequent string of reasons presented by the learned Judge: (SCC p. 743, para 18)*

"What is meant by 'material services' needs some explanation too. Material services are not services which depend wholly or largely upon the contribution of professional knowledge, skill or dexterity for the production of a result. Such services being given individually and by individuals are services no doubt but not material services. Even an establishment where many such operate cannot be said to convert their professional services into material services. Material services involve an activity carried on through cooperation between employers and employees to provide the community with the use of something such as electric power, water, transportation, mail delivery, telephones and the like. In providing these services there may be employment of trained men and even professional men, but

> *the emphasis is not on what these men do but upon the productivity of a service organised as an industry and commercially valuable. Thus the services of professional men involving benefit to individuals according to their needs, such as doctors, teachers, lawyers, solicitors etc., are easily distinguishable from an activity such as transport service. The latter is of a commercial character in which something is brought into existence quite apart from the benefit to particular individuals. It is the production of this something which is described as the production of material services."*

33. The perusal of the aforesaid paragraphs makes it aptly clear that the Hospitals were deemed to be considered as an industry and the services rendered by the employees of the said industry were needed to be looked upon while dealing with the interpretation of the term industry.

34. While affirming the findings of the other judges, J. Chandrachud (*on behalf of himself, Jaswant Singh and Tulzapurkar, JJ.*) had also concurred with the ruling that Hospitals can be considered as an industry. The relevant parts are reproduced herein:

> "***173.*** *Section 2(j) of the Industrial Disputes Act, 1947, defines "industry" to mean —*
> *"any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen".*
> *These are words of wide import, as wide as the legislature could have possibly made them. The first question which has engaged the attention of every court. which is called upon to consider whether a particular activity is "industry" is whether, the definition should be permitted to have its full sway*

embracing within its wide sweep every activity which squarely falls within its terms or whether, some limitation ought not to be read into the definition so as to restrict its scope as reasonably as one may, without doing violence to the supposed intention of the legislature. An attractive argument based on a well-known principle of statutory interpretation is often advanced in support of the latter view. That principle is known as "noscitur a sociis" by which is meant that associated words take their meaning from one another. That is to say, when two or more words which are susceptible of analogous meaning are coupled together, they take their colour from each other so that the width of the more general words may square with that of words of lesser generality. An argument based on this principle was rejected by Gajendragadkar, J., while speaking on behalf of the Court, in State of Bombay v. Hospital Mazdoor Sabha [AIR 1960 SC 610 : (1960) 2 SCR 866 : (1960) 1 LLJ 251] . A group of five hospitals called the J.J. Hospital, Bombay, which is run and managed by the State Government in order to provide medical relief and to promote the health of the people was held in that case to be an industry.

174. *The Court expressed its opinion in a characteristically clear tone by saying that if the object and scope of the Industrial Disputes Act are considered, there would be no difficulty in holding that the relevant words of wide import have been deliberately used by the legislature in defining "industry" in Section 1(j) of the Act. The object of the Act, the Court said, was to make provision for the investigation and settlement of industrial disputes, and the extent and scope of its provisions would be realised if one were to bear in mind the definition of "industrial dispute" given by Section 2(k), of "wages" by Section 2(rr), "workman" by Section 2(s), and of "employer" by Section 2(g). The Court also thought that in deciding whether the State was running an industry, the definition of "public utility service" prescribed by Section 2(n) was very*

significant and one had merely to glance at the six categories of public utility services mentioned therein to realise that in running the hospitals the State was running an industry. "It is the character of the activity which decides the question as to whether the activity in question attracts the provision of Section 2(j); who conducts the activity", said the Court, "and whether it is conducted for profit or not do not make a material difference".

175. *But having thus expressed its opinion in a language which left no doubt as to its meaning, the Court went on to observe that though Section 2(j) used words of a very wide denotation, "it is clear" that a line would have to be drawn in a fair and just manner so as to exclude some callings, services or undertakings from the scope of the definition. This was considered necessary because if all the words used in the definition were given their widest meaning, all services and all callings would come within the purview of the definition including services rendered by a person in a purely personal or domestic capacity or in a casual manner. The Court then undertook for examination what it euphemistically called "a somewhat difficult" problem to decide and it proceeded to draw a line in order to ascertain what limitations could and should be reasonably implied in interpreting the wide words used in Section 2(j). I consider, with great respect, that the problem is far too policy-oriented to be satisfactorily settled by judicial decisions. Parliament must step in and legislate in a manner which will leave no doubt as to its intention. That alone can afford a satisfactory solution to the question which has agitated and perplexed the judiciary at all levels.*

176. *In Hospital Mazdoor Sabha the Court rejected, on concession, two possible limitations on the meaning of "industry" as defined in Section (2) of the Act: firstly, that no activity can be an industry unless accompanied by a profit motive and secondly, that investment of capital is indispensable for treating an activity as an industry. The Court also rejected,*

on examination, the limitation that a quid pro quo for services rendered is necessary for bringing an activity within the terms of Section 2(j). If the absence of profit motive was immaterial, the activity, according to the Court, could not be excluded from Section 2(j) merely because the person responsible for the conduct of the activity accepted no return and was actuated by philanthropic or charitable motives. The Court ultimately drew a line at the point where the regal or sovereign activity of the Government is undertaken and held that such activities of the Government as have been pithily described by Lord Watson as "the primary and inalienable functions of a constitutional Government", could be stated negatively as falling outside the scope of Section 2(j). The judgment concludes with the summing-up that, as a working principle, an activity systematically or habitually undertaken for the production or distribution of goods or for the rendering of material services to the community at large or a part of such community with the help of employees is an undertaking within the meaning of Section 2(j); that such an activity generally involves the co-operation of the employer and the employees; that the activity must not be casual nor must it be for oneself nor for pleasure, but it must be organised or arranged in a manner in which trade or business is generally organised; and thus, the manner in which an activity is organised or arranged and the form and the effectiveness of the co-operation between the employer and employee for producing a desired result and for rendering of material services to the community become distinctive of activities falling within the terms of Section 2(j). Seeds of many a later judgment were sown by these limitations which were carved out by the Court in order to reduce the width of a definition which was earlier described as having been deliberately couched by the legislature in words of the widest amplitude.

177. *These exceptions which the Court engrafted upon the definition of "industry" in Section 2(j) in order to give to the*

> *definition the merit of reasonableness, became in course of time as many categories of activities exempted from the operation of the definition clause. To an extent, it seems to me clear that though the decision in Hospital Mazdoor Sabha that a Government-run hospital was an industry proceeded upon the rejection of the test of "noscitur a sociis", it is this very principle which constitutes the rationale of the exceptions carved out by the Court. It was said that the principle of "noscitur a sociis" is applicable in cases of doubt and since the language of the definition admitted of no doubt, the principle had no application. But if the language was clear, the definition had to be given the meaning which the words convey and there can be no scope for seeking exceptions. The contradiction, with great respect, is that the Court rejected the test of "association of words" while deciding whether the Government-run hospital is an industry but accepted that very test while indicating which categories of activities would fall outside the definition. The question then is: If there is no doubt either as to the meaning of the words used by the legislature in Section 2(j) or on the question that these are words of amplitude, what justification can one seek for diluting the concept of industry as envisaged by the legislature?*
>
> ***178.*** *On a careful consideration of the question I am of the opinion that Hospital Mazdoor Sabha was correctly decided insofar as it held that the J.J. group of hospitals was an industry but, respectfully, the same cannot be said in regard to the view of the Court that certain activities ought to be treated as falling outside the definition clause.*"

35. Upon perusal of the afore cited paragraphs, it is clear that the concurring opinions rendered by various judges in the above cited case includes a Hospital as an industry under Section 2(j) of the ID Act for the purpose of adjudication of disputes with their employees.

36. The above cited paragraphs of the case makes it evident that the activities carried out by the people employed in the Hospital can be categorized as activities done in furtherance of a commercial purpose.

37. Therefore, it is crystal clear that even though the hospitals are considered to be non-profit institutions, the very fact that they render services makes them part of an industry as defined under Section 2(j) of the ID Act.

38. Even though the ruling of the Hon'ble Court in the aforementioned case has been referred to a larger bench for review, the issue is yet not heard by the Hon'ble Court and therefore, the judgment rendered in the said case still stands as the law of the land.

39. In the instant case, the petitioner Hospital is a Government run entity and fully funded by the Ministry of Health and family welfare. Apart from the doctors rendering their services, there are other employees working in various capacities to ensure smooth functioning of the Hospital.

40. In light of the same, the contention of the petitioner that the Hospital cannot be construed as an industry under the ID Act is rejected and the reasoning given by the learned Labour Court for inclusion of the petitioner Hospital as an industry is upheld.

41. Now coming to the other question raised by the learned counsel for the petitioner Hospital, i.e. whether the State Government can refer the dispute for adjudication or not.

42. In their pleadings, the petitioner Hospital has vehemently argued that referral to the dispute by the State Government is bad in law as the petitioner

Hospital does not come under the said Government.

43. In reply to the said contention, the learned Court below had referred to the notification issued by the Union of India through its Ministry of Labour and Employment in the year 1975 whereby the State Governments were entrusted with the powers to refer the disputes for adjudication.

44. Paragraph no. 11 of the impugned award also clarifies that the validity of the said notification was upheld by this Court in the case of ***M/s Leela (1989)* 43 FLR 178**. Therefore, the position of law regarding referral of a dispute is clear and no questions can be raised about the same.

45. Now coming to the issue of whether the respondent workman can be said to be in continuing services in the petitioner Hospital for 240 days preceding the date of termination of his services.

46. In this regard, the petitioner Hospital has contended that the burden of proving the same was on the respondent workman and he had failed to do so, however, a bare perusal of paragraph 16 makes it crystal clear that the petitioner Hospital had failed to substantiate their claim of non-continuance of services of the respondent workman and material on record was in favor of the workman.

47. The said paragraph also makes it evident that the learned Court below had referred to the attendance sheets of the respondent workman in the year 1991-92 therefore, leading to establishment of fact that the respondent workman had worked in the petitioner Hospital during the said time period.

48. Furthermore, the petitioner Hospital failed to prove that they intimated the respondent workman about the absence and tried to call him back to the

services. Hence, it becomes clear that the contention of the petitioner Hospital regarding non-continuous work by the respondent workman cannot be accepted as the material on record suggested the contrary, leading to the right conclusion by the learned Court below.

49. In light of the same, this Court is of the considered view that the learned labour Court had rightly appreciated the material facts and directed reinstatement of the respondent workman.

50. In the instant case, the impugned award directing the reinstatement along with the back wages was passed by the learned Labour Court on 29th July, 2002 and the same was challenged by way of filing the instant petition in the year 2003. This Court has also perused the order sheets of the instant writ petition since the year 2003 till today and it is found that the matter has been listed 39 times, however, no decision has been taken till today.

51. Such a situation of gross delay can only be termed as a sorry state of affairs in the Constitutional Courts of this Country where the poor laborers are forced to fight tooth and nail to get justice for themselves.

52. The instant case took more than two decades to reach to a conclusion and the said prolonged delay has left the litigant/poor worker in a state of profound uncertainty. The ramifications of such delay are immense as the same leads to loss of faith in the legal system and the poor litigants find themselves trapped in a never ending cycle of waiting for justice

53. The timeless adage "justice delayed is justice denied" resonates strongly in the present case, where such a delay can only be interpreted as a failure of this Court to meet the rightful expectations of the economically

disadvantaged. Even though various stakeholders in the country strive for instant justice, the same is yet to be achieved.

54. As observed in the preceding paragraphs, despite no irregularity with the impugned award, the poor workman has been enduring the legal process for the past 21 years.

55. This inordinate delay underscores a reality which is disheartening and the judiciary's efficacy in catering to the needs of the less privileged seems to have faltered and this Court firmly believes that it is high time that the Constitutional Courts of this Country should step up in giving speedy justice to the citizens. A swift and efficient justice is not only the fundamental right of the citizens of this country but also one of the cornerstones of a thriving democracy.

56. In the instant case, despite a favorable award, the respondent workman has been moving from pillar to post to get it implemented and the same defeats the entire purpose of granting him a relief in the first instance.

57. In any case, the referral of relevant material facts and records makes it clear that the learned Labour Court did not commit an error in law, rather had relied upon the settled position of law regarding the issues before it and therefore held the dispute in favor of the respondent workman.

58. Therefore, this Court is of the view that there is no illegality with the impugned award dated 29th July, 2002, passed by learned Labour Court, Karkardooma Courts in ID no. 736/95 and the same is hereby upheld.

59. In light of the foregoing discussion on fact and law, the present petition, along with pending applications (if any) stands dismissed.

60. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

FEBRUARY 1, 2024
gs/av/ryp

Click here to check corrigendum, if any