

**IN THE COURT OF Ms. VEENA RANI, PRESIDING OFFICER LABOUR COURT
ROUSE AVENUE COURTS, NEW DELHI**

LIR - 44/2016

INDUSTRIAL DISPUTE BETWEEN :-

Shri Desh Raj S/o Sh. Chandgi Ram,

(Lastly posted as Filter-II at Water Emergency Control Room, Mehrauli South Zone)

Through

Municipal Employees Union (General Secretary)

Agarwal Bhawan, G.T. Road, Tis Hazari,

Delhi-110054

.....Workman

VERSUS

Management of Delhi Jal Board

Through its Chief Executive Officer.

Govt. of NCT of Delhi, Varunalaya,

Phase-II, Karol Bagh, New Delhi-110005

ORDER

1. By way of this order, the application on behalf of the workman under Section 11-3(B) I.D. Act r/w Rule 15 I.D. Rules is being moved for the production of documents. The workman has sought production of 17 documents from the management-herein.

AVERMENTS OF THE WORKMAN IN THE APPLICATION:

2. The present application seeks production of original attendance record of Muster Roll employees from the period Jan. 1986 till Apr. 1995 and the original attendance record of the workman-herein from Apr. 1995 till Nov.2002. Original documents such as :Experience certificate; Show Cause Notice; Reply given by the advocate of the workman-herein to the Asst. Director; Memorandum; Letters submitted by the workman-herein; Reminder Letters submitted by the workman-herein have been sought in the present application. The copies of the: Matriculation Certificate (purportedly placed in the Service record) and State Board Diploma have also been sought by the workman-herein. The Original Letters regarding verification of certificate of workman-herein issued by Principal Govt. Polytechnic, Jhajjar to the Zonal Engineer and the letter regarding certificate issued by the State board of Technical Education have also been sought by the workman-herein through the present application.


25.8.2020

REPLY OF THE MANAGMEENT

3. The management-herein has filed reply to the application of the workman-herein and has stated that the workman-herein has already filed his affidavit of evidence on or about 24.05.2014 and has also been cross-examined by the management-counsel on 17.05.2016 and 20.11.2017. Thereafter the management-herein had submitted its Affidavit of Evidence on 17.09.2018 and the copy was duly provided to the workman-herein on that very day. On 26.11.2018 the workman-herein submitted that the affidavit-of-evidence of the management was argumentative in nature. As per the reply of the management the workman-herein is resorting to dilatory conduct in order to delay the matter instead of cross-examining the management witness as per the stage of the case. The workman is trying to reopen the whole case altogether.

DELIBERATIONS

4. Section 11(3) in The Industrial Disputes Act, 1947 prescribes:
- (3) Every Board, Court, 1 Labour Court, Tribunal and National Tribunal] shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit, in respect of the following matters, namely:--**
- (a) enforcing the attendance of any person and examining him on oath;**
- (b) compelling the production of documents and material objects;**
- (c) issuing commissions for the examination of witnesses;**
- (d) in respect of such other matters as may be prescribed; and every inquiry or investigation by a Board, Court, 2 Labour Court, Tribunal or National Tribunal], shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).**
5. As per Rule 15 of the Industrial Disputes (Central) Rules, 1957 a Board, Court, Labour Court, Tribunal or National Tribunal or an arbitrator may accept, admit or call for evidence at any stage of the proceedings before it/him and such manner as it/he may think fit. The relevant provisions of the Civil Procedure Code, 1908, which define the powers of civil courts and regulate their exercise in relation to discovery production and inspection are Section 30 of the Code and the rules in Order XI. Section 30 mentions "Subject to such conditions and limitations as may be prescribed, the court may at any time either of its own motion or on the application of any party make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, admission of documents and facts and the discovery, inspection, production, impounding and return of documents or other material objects producible as evidence. The power conferred by Section 30 is subjected by that section itself to "such conditions and limitations as may be prescribed." The rules in Order XI, C.P.C., prescribe certain conditions and limitations



subject to which a civil court has to exercise the power conferred on it by Section 30, C.P.C. Rules 1 to 11 of Order XI deal with interrogatories. Rules 12 and 13 deal with discovery of documents. Rule 14 deals with productions of documents.

6. It is settled principle of law that production of documents cannot be allowed in the nature of making fishing inquiries from the adversary. It must be confined to facts which are relevant to the matters in question in the matter. In this regard it is important to mention here that different provisions of CPC and the I.D. Act are for meant for enabling the court and litigants to decide the suit early. There is no provisions in CPC or the I.D. Act which can be interpreted in such manner so that such provision delays the process / trial of any matter. Court cannot be expected to generate evidence for or against either party. Onus is always on parties to prove their respective version. The workman-herein has not given any reason as to why the production of the above-said 17 documents are necessary and what are the reasons that some of the documents (certificate etc.) are not in possession of the workman-herein. Moreover, the workman-applicant has moved this application after being cross-examined by the management-witness. Thus the possible endeavor of the workman-herein to remove lacunae after cannot be ruled out. The workman-herein had adequate time to seek production of documents at the previous / proper stage. All the documents sought by the workman-applicant are documents which were already existing since long and it is not the case of the workman-herein that certain 'new' documents have suddenly emerged after the time when the workman-applicant had adduced his evidence and was cross-examined. The Ld. counsel for the workman has also relied upon certain judgments. However, those judgments are also on different factual and legal context.
7. Application of the workman-herein is dismissed / disposed of. However, the workman-applicant is at liberty to pursue the plea / option of "adverse inference" against the management-herein which shall be looked into in view of the facts / evidence of the case on record.

Announced as per the advisory / orders of the Hon'ble High Court vide its order/letter No.R-235/RG/DHC/2020 DATED 16-05-2020 and the Amended Protocol Letter No:24/DJ/RADC.2020 dated 07-05-2020 of Ld. District & Sessions Judge-Cum-Special Judge (PC-Act), CBI, Rouse Avenue District Courts, New Delhi.

Dated:25.08.2020



(VEENA RANI)
 Presiding Officer Labour Court
 Rouse Avenue Courts, New Delhi
 Judge Code : DL0271
 25.08.2020