

(2009) 10 DEL CK 0344

Delhi High Court

Case No: Writ Petition (C.) No. 12456 of 2009

Amit Kumar Yadav

APPELLANT

Vs

The Transco and Another

RESPONDENT

Date of Decision: Oct. 15, 2009**Acts Referred:**

- Constitution of India, 1950 - Article 226
- Delhi Electricity Reform (Transfer Scheme) Rules, 2001 - Rule 6
- Delhi Electricity Reform Act, 2000 - Section 16

Hon'ble Judges: S.N. Aggarwal, J**Bench:** Single Bench**Advocate:** Ashok Gurnani, for the Appellant; Ruchir Mishra and Mukesh Tiwari, for the Respondent**Final Decision:** Dismissed

Judgement

S.N. Aggarwal, J.

The petitioner was employed as Junior Mistry on current charge basis with the erstwhile Delhi Vidyut Board (DVB). He was engaged by the erstwhile DVB on current charge basis w.e.f. 26.02.2001. The erstwhile DVB ceased to exist w.e.f. 01.07.2002. The DVB was unbundled w.e.f. 01.07.2002. Consequent upon unbundling of DVB, the generation of electricity went to GENCO, transmission went to TRANSCO and the distribution of electricity in Delhi came to the share of DISCOM. For the purpose of distribution of electricity, Delhi was divided into six regions, i.e., East, Central, South, South-West, North and North-West. The distribution of electricity in the East and Central Region went to BSES Yamuna Power Limited, the distribution of electricity in the South and South-West Region went to BSES Rajdhani Power Limited, North and North-West Region went to NDPL. Section 16 of the Delhi Electricity Reforms Act, 2000, conferred powers on the Government of NCT of Delhi to frame rules for transfer of personnel and employees working in the erstwhile DVB to its successor companies. Exercising its powers u/s 16 of the Delhi Electricity Reforms Act, 2000,

the Government framed rules for transfer of employees of the erstwhile DVB to the successor companies and these rules are called Delhi Electricity Reform (Transfer Scheme) Rules, 2001. The relevant rule which deals with the transfer of employees to the successor companies is Rule 6.

2. Pursuant to the rules for transfer of personnel and employees of the erstwhile DVB to the successor companies were framed, the personnel working in the erstwhile DVB were allotted to different companies vide notification dated 20.11.2001. The name of the petitioner along with some other personnel, did not figure in the said notification dated 20.11.2001. The petitioner along with others, therefore, filed a writ petition being W.P.(C.) No. 5179/2002 for issuance of an appropriate writ or directions to allocate them also to the successor companies. This writ petition being W.P.(C.) No. 5179/2002 was withdrawn by the petitioner because the Government had issued a corrigendum dated 30.09.2002 allocating the petitioner to the successor company mentioning "East" against his name appearing at Sl. No. 21 in the said corrigendum.

3. Thereafter, though the name of the petitioner was included in the corrigendum dated 30.09.2002 and he was allocated to the "East" but as he was not accepted by any of the successor companies, he filed another writ petition being W.P.(C.) No. 8075/2002 and this writ petition was filed by the petitioner against BSES Yamuna Power Limited being respondent No. 2 in the said petition. The cause title of the second petition is at page 46 of the Paper Book. The second writ petition being W.P.(C.) No. 8075/2002 was also withdrawn by the petitioner and was dismissed as withdrawn vide order dated 20.03.2004 granting liberty to the petitioner to take recourse to proceedings under the Industrial Disputes Act, 1947 pertaining to his dis-engagement/dis-continuation/non-engagement.

4. Pursuant to the liberty granted to the petitioner vide order dated 20.03.2004 in W.P.(C.) No. 8075/2002, the petitioner raised an industrial dispute with regard to his dis-engagement/dis-continuation against TRANSCO and not against the companies against whom the writ petition being W.P.(C.) No. 8075/2002 was filed and was withdrawn. The industrial dispute raised by the petitioner with regard to his dis-engagement/dis-continuation has been decided by the Labour Court against him vide impugned award dated 06.02.2008. It has been held by the Labour Court in the said award that there is no relationship of employer and employee between the parties. It is also held in the impugned award that the petitioner was not allocated to the company "TRANSCO".

5. I have gone through the impugned award carefully and have considered the submissions made by Mr. Ashok Gurnani, learned Counsel appearing on behalf of the petitioner. On going through the same, I do not find any perversity or illegality in the impugned award that may call for an interference by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution. As the petitioner, on unbundling of the erstwhile DVB, was allocated to the company described as "East"

in the corrigendum dated 30.09.2002, the petitioner should have raised dispute with regard to his dis-engagement/dis-continuation against BSES Yamuna Power Limited. It appears that the petitioner was well aware that he was not allocated to the company "TRANSCO" and it is for this reason the "TRANSCO" was not impleaded as party respondent in the second writ petition being W.P.(C.) No. 8075/2002. The petitioner can take appropriate proceedings pertaining to dis-engagement/dis-continuation against M/s BSES Yamuna Power Limited as per law.

6. For the foregoing reasons, I do not find any merit in this writ petition, which fails and is hereby dismissed in limine.