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

+ **W.P.(C) 10982/2017 & CM APPL. 44943/2017**

M/S HOLLYWOOD HOSPITALITY (P) LTD.....Petitioner

Through: Ms. Himani Singh, Advocate.

versus

GOVERNMENT OF NCT OF DELHI & ANR.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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29.07.2026

1. The present petition is filed under Article 226/227 of the Constitution of India assailing order dated 17.05.2016 (hereinafter '**impugned order**') passed by the learned Deputy Labour Commissioner, directing the petitioner to pay Respondent No.2 ₹52,500/-, on account of his earned wages for the period from 01/11/2010 to 15/12/2010 along with compensation of ₹100/-.
2. Briefly stated, Respondent No.2 filed an application under Section 21 (2) of the Delhi Shops & Establishments Act, 1954 before the learned Deputy Labour Commissioner, seeking a direction to the petitioner, to release his alleged earned wages for the period from 01/11/2010 to 15/12/2010, amounting to ₹52,500/-. The petitioner entered appearance and filed its written statement contesting the claim. However, on account of its subsequent non-appearance, the proceedings were taken up *ex parte*.
3. The learned Deputy Labour Commissioner, in the impugned order, noted that there was nothing on record to disbelieve the

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unchallenged and un-rebutted statement of claim/evidence of Respondent No.2. The learned Deputy Labour Commissioner relying solely upon the claim of Respondent No.2, passed the impugned order directing the petitioner to pay an amount of ₹52,500/-, on account of earned wages for the period from 01.11.2010 to 15.12.2010, along with compensation of ₹100/- to Respondent No.2.

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

5. *Vide* order dated 11.12.2017, this Court stayed the operation and execution of the impugned order subject to deposit of ₹52,500/- with the Registrar General of this Court.

6. Learned counsel appearing for the petitioner submits that although the impugned order came to be passed *ex parte*, the written statement filed by the petitioner formed part of the record and was required to be considered by the learned Deputy Labour Commissioner before adjudicating the claim.

7. She submits that that Respondent No. 2 had tendered his resignation *vide* letter dated 04.11.2010 and, consequently, was no longer in the employment of the petitioner during the period for which wages have been claimed, namely from 01.11.2010 to 15.12.2010. It is contended that this specific defence had been pleaded in the written statement and that the resignation letter dated 04.11.2010 had also been placed on record. It is, therefore, urged that the impugned order has been passed mechanically, without adverting to the material available on record.

8. I have heard the submissions and perused the record.

9. A perusal of the impugned order indicates that the learned Deputy Labour Commissioner has proceeded to accept the claim of Respondent No. 2 solely on the ground that the petitioner's absence



rendered the claim unrebutted. While the petitioner may have been proceeded against *ex parte*, its written statement and the documents already placed on record did not cease to form part of the record and could not have been ignored. The learned Deputy Labour Commissioner was nonetheless under an obligation to examine the pleadings and material available before arriving at a conclusion.

10. Significantly, the petitioner's specific plea that Respondent No.2 had resigned from service on 04.11.2010, supported by the resignation letter stated to be on record, has not even been adverted to in the impugned order. The complete omission to consider this material renders the decision-making process unsustainable.

11. Despite repeated opportunities, Respondent No.2 has failed to appear before this Court for a considerable period of time. No reply has been filed by Respondent No.2 controverting the averments made before this Court. Accordingly, Respondent No.2 is proceeded against *ex parte*.

12. In the absence of any reply, the averments made by the petitioner remain unrebutted. This Court has also independently examined the record and finds merit in the submissions advanced on behalf of the petitioner.

13. It is the contention of the petitioner that Respondent No.2 has resigned from his job with the petitioner *vide* resignation letter dated 04.11.2010 and consequently, ceased to be in its employment thereafter.

14. A perusal of the rejoinder filed by Respondent No. 2 before the learned Deputy Labour Commissioner reveals that Respondent No. 2 has unequivocally admitted to having tendered his resignation on 04.11.2010. His explanation, however, is that the petitioner-



management did not accept the said resignation and directed him to continue discharging his duties until a substitute was appointed.

15. Significantly, apart from the aforesaid bald assertion, no material whatsoever has been placed on record by Respondent No. 2 to substantiate that he, in fact, continued to work with the petitioner after tendering his resignation. There is no documentary or other evidence to establish that he rendered services during the period for which earned wages have been claimed.

16. Once the factum of resignation dated 04.11.2010 stands admitted, and there is no material on record to demonstrate that Respondent No. 2 continued in service thereafter, this Court is of the considered opinion that Respondent No. 2 could not have been held entitled to earned wages for the period subsequent to his resignation. Thus, the impugned order granting earned wages for such period to Respondent No.2 cannot be sustained.

17. Consequently, the present petition is allowed and the impugned order dated 17.05.2016 is set aside.

18. The Registry is directed to release the amount deposited by the petitioner before this Court pursuant to order dated 11.12.2017, along with the accrued interest thereon, to the petitioner.

AMIT MAHAJAN, J

JULY 29, 2026

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