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

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Date of Decision: 25th November, 2016

+ **W.P.(C) 5300/2014**

SANJAY KUMAR

..... Petitioner

Through: Mr.Sarfaraz Khan, Advocate

versus

M/S AMBA CINEMA & ANR.

..... Respondents

Through: Mr.N.K. Jha, Advocate for
respondent no.2.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The petitioner has challenged the award dated 21st March, 2014 passed by the Labour Court whereby his claim has been rejected.
2. The petitioner challenged his termination on the ground that he has been illegally terminated by the respondent. The respondent contested the petitioner's claim on the ground that there was no employer-employee relationship and in any case, the petitioner has not completed 240 days of service.
3. The Labour Court held that there was a relationship of employer and employee between the parties. However, with respect to the petitioner's claim of having worked for 240 days, the Labour Court held that the petitioner has failed to prove the same.
4. Learned counsel for the petitioner submits that the petitioner filed an application dated 27th September, 2011 to summon three

witnesses to prove that he had worked for the respondent for 240 days. It is submitted that the Labour Court allowed the application on 27th September, 2011 but the petitioner's application was wrongly dismissed by a subsequent order dated 15th March, 2013. The petitioner's seeks the remand of the matter back to the Labour Court enable him to examine the three witnesses.

5. The petitioner's application dated 27th September, 2011 for additional evidence is allowed and the petitioner is permitted to lead the evidence of the three witnesses prayed for in the application dated 27th September, 2011.

6. The petition is allowed. The impugned award dated 21st March, 2014 is set aside and the matter is remanded back to the Labour Court for recording of the evidence of the three witnesses.

7. The Labour Court shall afford an opportunity of rebuttal evidence to the respondent after the petitioner's evidence and thereafter, pass a fresh award after hearing the parties. The parties shall appear before the Labour Court on 15th December, 2016 when the Court shall fix the date for recording of the petitioner's evidence. The record of the Labour Court be returned back forthwith.

8. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court Master.

NOVEMBER 25, 2016
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J.R. MIDHA, J.