

\$~36

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

%

Date of Judgment: 20.02.2018

+

W.P. (C) 1592/2018

D B CORP. LTD.

..... Petitioner

Through: Mr.Gopal Jain, Sr. Advocate with
Mr.B.K. Mishra and Ms.Prashanti
Pasupuleti, Advocates.

versus

GOVERNMENT OF N.C.T. DELHI AND ORS.... Respondents

Through: Mr.Kishor Ram Lambat, Advocate
(Enrol. No. MAH 928/1988).

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

VINOD GOEL, J. (ORAL)

CM No. 6545/2018 (exemption)

Exemptions allowed subject to all just exceptions.

Application stands disposed of.

W.P. (C) 1592/2018 & CM No. 6544/2018 (for stay)

1. Mr.Kishor Ram Lambat, Advocate, undertakes to file *vakalatnama* on behalf of respondent no.2 during the course of the day.
2. The petitioner seeks quashing of the order bearing No.08/WJA/DLC/NDD/2017/3320-3323 dated 24.11.2017 passed by Sh. U.K. Sinha, Authority under Working Journalists

& Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (hereinafter referred to as 'Working Journalists Act') and consequent Recovery Certificate No.08/WJA/DLC/NDD/2017/3362-3366 dated 30.11.2017 directing recovery of Rs.12,18,924/- against them in favour of the respondent no.2.

3. Based on the recommendations of Majithia Wage Board Award which were admittedly accepted by the Central Government on 11.11.2011 the respondent no.2 moved an application before the Deputy Labour Commissioner (in short 'DLC') to initiate the proceedings under Section 17(1) of the Working Journalists Act for recovery of Rs.12,18,924/-.
4. Learned counsel for the petitioner submits that Deputy Labour Commissioner/respondent no.1 has no jurisdiction to adjudicate the matter. In this regard, he relies upon the judgment of a Single Bench of this Court in the case of **The Associated Press through its General Manager Vs. Laurinda Keys and Anr., MANU/DE/1461/2009**, wherein it was held that Section 17 (2) of the Working Journalists Act & Other Newspaper Employees Act, 1955 will apply when disputed questions of fact, disputed question of law or when mixed disputed question of facts and law arise and the jurisdiction of the State Government and Authorized Authority is limited under Section 17 (1) of the Act and confined to narrow examination for satisfaction as to whether any amount can be recovered. It was further held that a

detailed or elaborate inquiry into disputes and counter claims whether they relate to law, facts or are mixed questions of law and facts is not envisaged under Section 17 (1) of the Act. He submits that the State Government should have made a reference under Section 17 (2) of the Act to the Labour Court for adjudication.

5. The **Hon'ble Supreme Court** in the case of **Avishek Raja & Ors. Vs. Sanjay Gupta, (2017) 8 SCC 435**, while dealing with the recommendations of Majithia Wage Board, has held that the dispute that arises has to be resolved by the fact findings authority under Section 17 of the Working Journalists Act. It was further held in para no. 29 that henceforth all complaints with regard to non-implementation of the Majithia Wage Board Award or otherwise be dealt with in terms of the mechanism provided under Section 17 of the Act and it would be more appropriate to resolve such complaints and grievances by resort to the enforcement and remedial machinery provided under the Act rather than by any future approaches to the courts in exercise of the competent jurisdiction of the courts or otherwise.
6. By order dated 04.10.2016 in the case of **Avishek Raja & Ors. Vs. Sanjay Gupta in Contempt Petition (C) No. 411/2014 in W.P. (C) 246/2011**, the **Hon'ble Supreme Court** directed that in all cases where there is a dispute with regard to the amount payable, the State Governments shall act under the provisions of Section 17(2) of the Working Journalists Act and Labour Court

will finalize its award expeditiously and send the same to the State Government for due execution.

7. At this stage, learned counsel for the respondent no.2 having admitted the legal position as referred to in the preceding para, on instructions, submits that he has no objection in case the impugned orders dated 24.11.2017 and 30.11.2017 passed in favour of Respondent no. 2 by the Deputy Labour Commissioner under Section 17(1) of Working Journalists Act are set-aside and the State Government is directed to refer the disputes under Section 17 (2) of the Working Journalists Act for adjudication to the Labour Court.
8. In view of the submissions made by the learned counsel for the parties, this writ petition is disposed of with the direction that the respondent no.1/Govt. of NCT of Delhi shall make a reference of dispute between the petitioner and Respondent No.2 under Section 17 (2) of the Working Journalists Act to the Labour Court within a period of two months from the date of receipt of the order and the Labour Court after receiving the reference from the State Government shall dispose of the matter expeditiously within a period of six months.

(VINOD GOEL)
JUDGE

FEBRUARY 20, 2018
"shailendra"