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

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Date of Judgment: 01st June, 2018

+ W.P.(C) 6304/2018

SAROJ KUMAR JHA

..... Petitioner

Through: Mr.Kamlesh Kumar Mishra, Advocate
with the petitioner in person.

versus

COMMISSIONER WORKMENS COMPENSATION & ORS

..... Respondents

Through: Mr.Sanjoy Ghose, ASC, GNCTD.
Mr.Umesh Sharma, CGSC for UOI
with Mr.Abhinav Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. (ORAL)

C.M.24251/2018 (exemption)

1. Exemption is allowed subject to just exceptions.
2. Application stands disposed of.

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3. This is a petition filed under Article 226 of the Constitution of India by which the petitioner seeking the following reliefs:
 - (i) Quash or modify or set aside Section 1 (6) of the Payment of Wages Act, 1936 to the extent so that it covers all the workers/employees/labourers or by whatsoever name the workmen may be known as to be eligible to be able to raise their

grievances under the Payment of Wages Act for the non-payment of the wages.

- (ii) Pass an order directing the authorities under the Payment of Wages Act to adjudicate the complaints/representation/grievances received by them to be adjudicated in a time bound manner and maximum within a period of 30 days of the receipt of the payment.
 - (iii) Pass an order or direction in the nature of mandamus directing the authorities to establish an online forum to redress the complaints/grievances raised by workers/workmen/labourers via the internet in a speedy and just manner.
 - (iv) Pass an order directing respondent no.1 and 2 to act on the complaints/representations dated 18.12.2017 made by the petitioner herein and dispose of the same and to ensure that the respondents no.3 and 4 pay the wages and dues of the petitioner at the earliest and for other directions.
4. The petition reveals that the petitioner was offered an appointment to the post of 'Manager-Training & Sales Process' in the Sales Department, Delhi vide letter of intent dated 30th June, 2017 issued by the respondent no.3. It is also claimed that pursuant to the above offer, the petitioner joined the organization from 04.07.2017 and performed all the duties and responsibilities assigned to him in the most professional and honest manner. The petitioner also claims that due to certain personal reasons, the petitioner resigned from the above mentioned post on 23.08.2017 by sending an e-mail to Mr.Dinesh Bansal, Vice President, HR & Admin with a copy of the same having been sent to the CFO of the company and other officials. The petitioner also claims that he has obtained clearance from all the Departments concerning Accounts, Administration, Sales, IT etc. and

duly returned all the office assests and thereafter submitted the same to the HR department. The complaint of the petitioner is that the employer despite having been granted clearance to the petitioner, withheld full and final settlement of the petitioners by sending a fictitious and unsubstantiated letter dated 12.09.2017. The petitioner also claims that after receiving the letter dated 12.09.2017, the petitioner addressed several communications, written and verbal but did not receive the full and final wages for the period he had worked. It is also claimed that he had visited the office of the respondents no.3 and 4 on 06.11.2017 and thereafter a legal notice was also sent on 12.11.2017, which was replied to by the respondents no.3 and 4 on 21.11.2017. It is also claimed that the petitioner made a representation to the Commissioner Workmen's Compensation seeking intervention and for payment of backwages as per the Payment of Wages Act and to ensure that the employees are not harassed for non-payment of wages.

5. Mr.Sanjoy Ghose, learned counsel enters appearance on an advance copy and submits that the present writ petition is not maintainable as it relates to a purely private dispute between the petitioner and his employer. He submits that the communication dated 12.09.2017 discloses that the petitioner had not served for even one month effective from the date of his resignation and the organization has demanded one month salary from the petitioner which has led to filing of the present writ petition. Mr.Ghose also submits that the petitioner would not be covered under the provisions of the Minimum Wages

Act. Additionally, it is pointed out that writ petition raises disputed questions of fact, which cannot be decided in this writ petition.

6. Mr. Umesh Kumar, learned counsel for the Union of India also submits that it being a private dispute between the petitioner and the respondents no.3 and 4, the petitioner has also sought a prayer to modify and set aside Section 1 (6) of the Payment of Wages Act, 1936 to the extent that it may cover all workers/employees/labourers or by whatsoever name the workmen will be known as to be eligible. Learned counsel for the respondent submits that such a relief cannot be sought in the present petition, especially when the petitioner has not even worked for one month with the respondents no.3 and 4. The petition or the legal notice issued by the petitioner does not even disclose as to what were the terms of employment, what was the salary agreed or whether the petitioner was on probation or whether he had gained permanent employment. He submits that the judicial adventurism embarked upon by the petitioner should not be encouraged as it is unclear whether the present writ petition is a PIL or the petitioner wishes to seek recovery under the garb of filing the petition. It is submitted that the petition would result in a gross waste of judicial time as also gross waste of time of the respondents i.e. Union of India, the Commissioner Workmen's Compensation, the Central Labour Commissioner, Ministry of Labour and Employment and Department of Labour by impleading them as parties when it is only a private dispute between the two individuals.

7. We find force in the submissions of the counsels for the respondents.
This writ petition is completely unfounded, not maintainable, devoid of any relevant facts and a perfect example of judicial adventurism.
8. Accordingly, the writ petition is dismissed.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J

JUNE 01, 2018/rb

