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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Judgment: 02.05.2018

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W.P. (C) 6524/2016

D B CORP. LTD.

..... Petitioner

Through: Mr.Gopal Jain, Sr. Advocate with
Ms.Chinmayee Chandra and Ms. Megha
Gupta, Advs.

versus

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

Through: Mr. Rhishabh Jetley, Adv. for R1.
Mr. Parmanand Pandey, Adv. for R4 to 16.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

VINOD GOEL, J. (ORAL)

W.P. (C) 6524/2016

1. The petitioner, a newspaper establishment, seeks quashing of the proceedings under Section 17 (1) of the Working Journalists & Other Newspaper Employees (Condition of Service and Miscellaneous Provisions) Act, 1955 (hereinafter referred to as 'WJ Act') pending against it at the instance of its employees i.e. respondent No.4 to 16.
2. Based on the recommendations of Majithia Wage Board Award which were admittedly accepted by the Central Government on

11.11.2011 the respondent no.4 to 16 moved separate applications before the Assistant Labour Commissioner (in short 'ALC') to award them the benefit thereof under Section 17(1) of the WJ Act.

3. The learned senior counsel for the petitioner argued that since amount due is yet to be determined, matter needs to be adjudicated upon by the Labour Court under Section 17(2) and not by ALC under Section 17(1). In this regard, he has relied upon three Judges Bench judgment of **the Hon'ble Supreme Court in Samarjit Ghosh Vs. Bennett Coleman and Co. And Anr. AIR 1987 SC 1869** and para No.6 of the judgment reads as under:-

"6. When all the provisions of Section 17 are considered together it is apparent that they constitute a single scheme. In simple terms the scheme is this. A newspaper employee, who claims that an amount due to him has not been paid by his employer, can apply to the State Government for recovery of the amount. If no dispute arises as to the amount due the Collector will recover the amount from the employer and pay it over to the newspaper employee. If a question arises as to the amount due, it is a question which arises on the application made by the newspaper employee, and the application having been made before the appropriate State Government it is that State Government which will call for an adjudication of the dispute by referring the question to a Labour Court. When the Labour Court has decided the question, it will forward its decision to the State Government which made the reference, and thereafter the State Government will direct that recovery proceedings shall be taken. In other words the State Government before whom the application for recovery is

made is the State Government which will refer the question as to the amount due to a Labour Court, and the Labour Court upon reaching its decision will forward the decision to the State Government, which will then direct recovery of the amount.”

4. In this regard, he also refers to a Single Bench decision of this Court in the case of **The Associated Press through its General Manager Vs. Laurinda Keys and Anr., 2009 SCC OnLine Del 2232**, 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 finding

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 resorting 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 an 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 respondents no.4 to 16, having admitted the legal position as referred to in preceding para, on instructions, submits that he has no objection in case the proceedings under Section 17 (1) of WJ Act pending before the ALC at the instance of respondents No.4 to 16 are quashed and the State Government is directed to refer the disputes raised

by them under Section 17 (2) of the WJ Act for adjudication to the Labour Court.

8. In the circumstances, with the consent of learned senior counsel for the petitioner and learned counsel for the respondents, this writ petition is disposed of with a direction that the proceedings pending before ALC under Section 17 (1) of WJ Act stand quashed and the respondent No.1/Government of NCT of Delhi shall make a reference of disputes between the petitioner and respondents No.4 to 16 under Section 17 (2) of the WJ Act to the Labour Court within a period of two months from the date of receipt of this order and the Labour Court after receiving the reference from the State Government shall dispose of the matter as expeditiously as possible within a period of six months.
9. In view of the above, the application being CM No.26755/2016 stands dismissed.

MAY 02, 2018
"sandeep"

(VINOD GOEL)
JUDGE