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

% *Date of Judgment:02.01.2018*

+ **W.P. (C) 9580/2017**

M/S KANGARO INDIA PVT. LTD. Petitioner

Through: Mr.Mohak Bhadana, Advocate
with Mr.Ankush Diwan, Advocate.

versus

GOVT. OF NCT OF DELHI & ANR Respondents

Through: Ms.Riya Gulati, Advocate for R-1.

**CORAM:
HON'BLE MR. JUSTICE VINOD GOEL**

VINOD GOEL, J. (ORAL)

1. The petitioner has invoked the writ jurisdiction of this Court under Article 226/227 of the Constitution of India for quashing/setting aside the Industrial Reference vide order dated 31.03.2017 by the Deputy Labour Commissioner (South District), New Delhi.
2. Learned counsel for the petitioner submits that the reference is premature and the petitioner has never terminated the services of the respondent no. 2. He submits that the respondent no. 2 had voluntarily absented himself from his duty.

3. As per the order of reference, the respondent no. 2 had raised the industrial dispute to the effect that his services have been terminated illegally and/or unjustifiable by the Management/petitioner. On receipt of the report by the Conciliation Officer under Section 12 (4) of the Industrial Dispute Act, 1947 (in short 'I.D. Act), the Deputy Labour Commissioner was satisfied that an industrial dispute in respect of the matters specified in the schedule exist between the parties i.e. the petitioner and the respondent No.2 and the same need to be referred to the appropriate Labour Court for adjudication and while exercising his powers conferred by Section 10 (1) (c) and 12 (5) of the I.D. Act, the Deputy Labour Commissioner, South District, Government of NCT of Delhi referred the dispute between the parties to the Labour Court No. 5 for adjudication on the terms of the reference mentioned in the schedule. The term of the reference is as under: -

“Whether the services of Sh. Sudhir Kumar Rai S/o Sh. Surender Nath Rai age-37 years, (Mobile No-9910258675), have been terminated illegally and/or unjustifiably by the management; and if so, to what relief is he entitled and what directions are necessary in this respect?”

4. In the writ jurisdiction, this court is not to make a fact finding inquiry. The petitioner is having his alternative remedy available to defend itself by appearing before the concerned Labour Court No. 5, where the reference was made by the Deputy Labour Commissioner and therefore this writ petition is

not maintainable and the same is hereby dismissed with no order as to costs.

(VINOD GOEL)
JUDGE

JANUARY 02, 2018
"shailendra"

