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

+ W.P.(C) 430/2007 & CM APPLN. 18048/2016

CHETNA EXPORT

..... Petitioner

Through: Dr.Chandra Shekhar, Advocate

versus

MADAN PAL VERMA

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **13.03.2019**

1. The petitioner has challenged the *ex-parte* award dated 16th November, 2004 whereby the Labour Court has directed reinstatement of the respondent with 50% back wages.
2. Learned counsel for the petitioner submits that the petitioner was never served with the summons from the Labour Court and the petitioner came to know of the impugned award first time on 10th August, 2006 when the respondent personally visited the petitioner along with the copy of the award and insisted on the reinstatement.
3. Learned counsel for the petitioner submits that the petitioner engaged the respondent for three months from 13th August, 1997 to 12th November, 1997 which came to end on the expiry of the aforesaid term. The petitioner thereafter took the services of the respondent on two or three occasions purely on casual basis and the same never lasted more than two months at a stretch. The petitioner vehemently disputes the respondent's claim of being employed as a Storekeeper by the petitioner in January 1997. The petitioner also disputes the alleged termination on 09th March, 1999. According to the

petitioner, the respondent has raised a frivolous claim. The petitioner, however, could not defend the case as the summons were not served on him.

4. There is no appearance on behalf of the respondent. The respondent has chosen not to appear before this Court.

5. This Court is satisfied that the *ex-parte* award is liable to be set aside and the matter be remanded back to the Labour Court for fresh adjudication after considering the defence of the petitioner.

6. The petition is allowed and the *ex-parte* award dated 16th November, 2004 is hereby set aside and the matter is remanded back to the Labour Court for fresh adjudication.

7. The parties shall appear before the Labour Court on 15th April, 2019 at 2.30 P.M. when the petitioner shall file the written statement along with the documents. The Labour Court shall thereafter afford an opportunity of leading evidence to both the parties and thereafter pass a fresh award in accordance with law.

8. The petitioner has deposited 50% back wages in terms of the order dated 06th February, 2007. The Registrar General is directed to refund the said amount to the petitioner along with the interest accrued thereon.

9. The record of the Labour Court be returned back forthwith.

10. Copy of this order be sent to the respondent.

11. Copy of this order be given *dasti* to counsel for the petitioner under the signature of the Court Master.

J.R. MIDHA, J.

MARCH 13, 2019

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