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

+ **W.P.(C) 3274/2013**

SUNIL KUMAR JHA Petitioner

Through: Mr Desh Raj, Advocate.

versus

SUSHIL AND ORS. Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **02.05.2019**

1. None appears for the respondents.
2. It is seen that despite sufficient opportunity, the respondents have not filed their counter affidavit as yet. Considering that the present petition was filed in May, 2013, this Court does not consider it apposite to await the representation on behalf of the respondents.
3. The petitioner has filed the present petition impugning an order dated 08.11.2011 passed by the Authority under the Delhi Shops and Establishment Act, 1954 (hereafter 'the Authority') directing the petitioner to pay an aggregate sum of ₹2 lakhs to respondent nos.1 to 8. It is the petitioner's case that the said respondents were not his employees and therefore, their claim is unsustainable.
4. The petitioner further claims that a notice of the proceedings before the Authority was not served on the petitioner and the impugned order was

passed *ex parte*. The petitioner further claims that respondent no.9 was not a supervisor as claimed by him, and the impugned order had been passed on the admission made by respondent no.9. The petitioner states that since respondent no.9 was not a supervisor in the employment of the petitioner, therefore, his statement/admissions could not have been relied upon to impose a liability on the petitioner.

5. Since, there is no material placed on record to indicate that the petitioner was served or the notice had been refused by him, as is recorded in the impugned order, this Court considers it apposite to set aside the impugned order and remand the matter to the concerned authority to consider afresh after affording the petitioner an opportunity to be heard.

6. This Court is also informed that the petitioner has deposited a sum ₹2 lakhs with the Registrar General of this Court. The said amount will continue to be retained by the Registry of this Court and would abide any order that may be passed by the Authority.

7. The petition is disposed of in the aforesaid directions.

VIBHU BAKHRU, J

MAY 02, 2019
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