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

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Date of Decision: 29th August, 2019

+ W.P.(C) 12228/2015

UTTAR PRADESH RAJKIYA

NIRMAN NIGAM LTD

..... Petitioner

Through: Mr. Sohaib Alam, Advocate.

versus

RAJENDRA TIWARI

..... Respondent

Through: Mr. Sarfaraz Khan, Advocate.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The petitioner has challenged the award of the Labour Court dated 14th February, 2013 whereby compensation of Rs.1,60,000/- for illegal termination and litigation expenses of Rs.40,000/- have been awarded to the respondent.

2. The petitioner filed an application under Section 10(4)(A) read with Section 33(2)(C) of the Industrial Disputes Act against the respondent on the averments that respondent joined the petitioner in 1981; he was posted as a Chowkidar at ESI Hospital, Basaidharapur since 1990 and the last drawn salary was Rs.1,545/- per month; the petitioner did not pay the salary since January, 1996; the petitioner also did not pay the provident fund and overtime; the petitioner terminated his services in October, 2006; and the respondent is entitled to reinstatement with back wages.

3. The petitioner contested the respondent's claim on the ground that there was no employer-employee relationship between the petitioner and the respondent.

4. The Labour Court held that there was relationship of employer and employee between the parties. The Labour Court relied on eight documents from the complaint book of the petitioner exhibited as Ex.MW1/X1 which was signed by the respondent as guard in December, 1995 to January, 1996. The Labour Court also relied on the documents filed by the respondent for treatment in ESI Hospital for staff member of the petitioner. The petitioner's witness MW-1 admitted that the respondent was in possession of quarter at ESI Dispensary, Tilak Vihar.

5. Learned counsel for the petitioner urged at the time of hearing that there was no relationship of employer-employee between the parties. It is submitted that the petitioner constructed the building for ESI Corporation and ESI Corporation is running a dispensary in the premises.

6. During the course of the hearing, this Court examined Mr. Anand Mani, AR of the petitioner present in Court as to whether the respondent was occupying a quarter at Basaidharapur to which he submitted that the respondent stayed in the quarter for construction workers along with the other labourers engaged through the contractor. However, no documents have been placed on record before the Labour Court or this Court with respect to the engagement of the respondent through the contractor. In that view of the matter, there is no infirmity in the finding of the Labour Court that the respondent worked with the petitioner at Basaidharapur from 1990 to 1996. The award of compensation of Rs.1,60,000/- to the respondent is upheld.

7. The writ petition is dismissed.
8. The amount deposited by the petitioner along with interest be released to the respondent.
9. Copy of this judgment be given *dasti* to learned counsels for the parties under signature of Court Master.

J.R. MIDHA, J.

AUGUST 29, 2019
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