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

% **Date of Decision: 11th September, 2019**

+ W.P.(C) 5095/2016 & CM No.21224/2016 & 39298/2017

M/S EVA FACILITIES Petitioner

Through: Ms. Renuka Arora, Advocate.

versus

SABBAL SINGH NEGI & ORS Respondents

Through: Mr. Lekh Raj Rehalia, Advocate for
respondent No.1

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T

1. The petitioner has challenged the *ex-parte* award of the Labour Court whereby the Labour Court awarded reinstatement with back wages to respondent No.1.

2. Learned counsel for the petitioner urged at the time of the hearing that the petitioner has its office at KB-2, Qutab Plaza, DLF Phase – I, Gurgaon, Haryana 122002 whereas respondent No.1 gave an incorrect address of Leela Palace Hotel, Diplomatic Enclave, Chanakya Puri, New Delhi in the statement of claim. It is submitted that the petitioner was never served with the summons before the Labour Court. It is further submitted that the petitioner inspected the record of the Labour Court according to which the summons were served on Mr.Varun Bagga, Assistant Manager – HR of Hotel Leela Palace, Diplomatic Enclave, Chanakya Puri, New Delhi who is under the employment of Hotel Leela Palace. It is submitted that the petitioner has no office in the Hotel Leela Palace, Diplomatic Enclave, Chanakya Puri, New Delhi. It is further submitted that respondent No.1 was

well aware of the petitioner's address which is mentioned in the appointment letter dated 28th March, 2012 placed on record by respondent No.1 before the Labour Court.

3. Learned counsel for respondent No.1 urged at the time of the hearing that respondent No.1 gave correct address of the petitioner at Hotel Leela Palace, Diplomatic Enclave, Chanakya Puri, New Delhi and the petitioner was duly served with the summons.

4. The record of the Labour Court has been examined. The petitioner's appointment letter dated 28th March, 2012 (Ex.WW1/2) is on record of the Labour Court and it contains the following address of the petitioner:

*“Phone: +91 124 4008282, Email: eva_facilities@yahoo.com
KB-2, Qutab Plaza, DLF Phase I, Gurgaon, Haryana 122002, India”*

5. Respondent No.1 has given the address of the petitioner in the statement of claim as Leela Palace, Diplomatic Enclave, Chanakya Puri, New Delhi whereas respondent No.1 was well aware of the petitioner's address i.e. KB-2, Qutab Plaza, DLF Phase I, Gurgaon which has been mentioned in the appointment letter dated 28th March, 2012 filed by respondent No.1 before the Labour Court. No justification has been given by respondent No.1 as to why the aforesaid address of the petitioner was not disclosed before the Labour Court and why the summons were not issued at this address. The summons issued by the Labour Court to the petitioner have not been received by the petitioner. The service of summons on the Assistant Manager – HR of Hotel Leela Palace is not a valid service on the petitioner.

6. The writ petition is allowed, impugned award is set aside and the industrial dispute is remanded back to the Labour Court for fresh

adjudication on merits after affording an opportunity to the petitioner to contest the same on merits. The pending applications are disposed of.

7. The parties shall appear before the Labour Court on 16th October, 2019 when the petitioner shall file the written statement along with all documents relating to this case within its power and possession. Respondent No.1 shall thereafter file the replication within the time to be stipulated by the Labour Court. The Labour Court shall thereafter frame the issues and afford an opportunity of evidence to both the parties and pass a fresh award after hearing both the parties.

8. The Labour Court is directed to expedite the hearing of the industrial dispute and endeavour to decide the same within eight months from 16th October, 2019.

9. The petitioner has deposited Rs.2,25,000/- with the Registrar General of this Court in terms of order dated 16th November, 2017. The Registrar General is directed to retain the same amount in fixed deposit till a fresh award is passed by the Labour Court. The Labour Court shall send the copy of the award to the Registrar General who shall disburse the amount to the successful party in terms of the award.

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

11. Copy of this judgment be given *dasti* to counsel for the parties under signatures of the Court Master.

J.R. MIDHA, J.

SEPTEMBER 11, 2019

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