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

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Decided on: 04.02.2020

+ W.P.(C) 1282/2020, CM APPL. 4464/2020, CM APPL. 4465/2020
& CM APPL. 4466/2020

SPRITED AUTO CAR (I) LTD. (ESPIRIT TOYOTA)
..... Petitioner

versus

STATE (GOVT. OF NCT OF DELHI) THROUGH THE LABOUR
DEPARTMENT AND ORS Respondents

+ W.P.(C) 1283/2020, CM APPL. 4467/2020, CM APPL. 4468/2020
& CM APPL. 4469/2020

SPRITED AUTO CAR (I) LTD. (ESPIRIT TOYOTA) Petitioner
Through:

versus

STATE (GOVT. OF NCT OF DELHI) THROUGH THE LABOUR
DEPARTMENT AND ORS Respondents

+ W.P.(C) 1285/2020, CM APPL. 4472/2020, CM APPL. 4473/2020
& CM APPL. 4474/2020

SPRITED AUTO CAR (I) LTD. (ESPIRIT TOYOTA)..... Petitioner
Through:

versus

STATE (GOVT. OF NCT OF DELHI) THROUGH THE LABOUR
DEPARTMENT AND ORS Respondents

+ W.P.(C) 1286/2020, CM APPL. 4475/2020, CM APPL. 4476/2020

& CM APPL. 4477/2020

SPIRITED AUTO CAR (I) LTD. (ESPIRIT TOYOTA)..... Petitioner
Through:

versus

STATE (GOVT. OF NCT OF DELHI) THROUGH: THE LABOUR
DEPARTMENT AND ORS Respondents

+ W.P.(C) 1287/2020, CM APPL. 4478/2020, CM APPL. 4479/2020
& CM APPL. 4480/2020

SPIRITED AUTO CAR (I) LTD. (ESPIRIT TOYOTA) Petitioner
Through:

versus

STATE (GOVT. OF NCT OF DELHI) THROUGH: THE LABOUR
DEPARTMENT AND ORS Respondents

+ W.P.(C) 1289/2020, CM APPL. 4483/2020, CM APPL. 4484/2020
& CM APPL. 4485/2020

SPIRITED AUTO CAR (I) LTD. (ESPIRIT TOYOTA)
..... Petitioner

versus

STATE (GOVT. OF NCT OF DELHI) THROUGH LABOUR
DEPARTMENT AND ORS Respondents

Through: Mr. Manoj Kumar Garg, Mr. Ashutosh
Kumar Singh, Mr. Kundan Kumar Roy and
Mr. B.L. Satija, Advocates for petitioner.
Mr. Mayank Bamniyal, Advocate alongwith
Mr. K. Manoj Singh, Dy. Labour for R-1.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. These petitions impugn the order dated 03.09.2019 passed by the learned Labour Court in New ID No: 1546-17, whereby the claims of the workmen were accepted, the petitioners were directed to be re-instated with full back wages and continuity of service.

2. Since the version of the workmen went unrebutted and uncontroverted, hence, their claim was allowed. The facts are, that services of six workmen who were engaged by the petitioner/management as washer-boys at a motor vehicle service centre, having varied monthly salary, were terminated on 23.01.2017 without issuance of any notice to them. They contended that an annoyed management threw them out when they demanded requisite facilities which ought to have been provided to them in terms of the labour laws. The workmen approached the Labour Conciliation Officer for redressal of their grievances. However, despite service of notice of the conciliation proceedings before the learned Labour Commissioner, the petitioner did not participate in the proceedings. Therefore, a reference was made to the Labour Court as under:-

“(a) Whether the services of workmen Dinesh & 05 others as shown in Annexure "A" have been terminated and/or unjustifiably by the management; and if so, to what relief is he entitled and what directions are necessary in this respect?

“5. The workman thereafter approached the Labour Commissioner who summoned the management but it failed to appear therein and accordingly the above reference was made to this court.”

3. Before the latter too, the petitioner did not put-up its case diligently. It entered appearance but did not file its written submissions in time. A cost of Rs. 10,000/- was imposed to facilitate the filing of the written submissions. However, neither was the cost paid nor were the written submissions filed. In the circumstances, the learned Labour Court was of the view that there being no opposition to the claims of the workmen despite numerous opportunities having been granted to the management, both before it as well as before the Conciliation Officer, where they had constantly failed to appear or contest the claim, therefore, the relief had to be granted. The impugned order had recorded *inter alia*:-

.....

11. As the management has not come forward to file any Written Statement or to cross-examine the claimant or to lead its own evidence, the evidence of the claimant remain uncontroverted and unrebutted and as such accepted on its face value.

12. Hence, the claimant is held entitled to the relief of reinstatement with fullback wages and continuity of service.”

4. The learned counsel for the petitioner submits that the management had made a representation to the Conciliation Officer by a letter dated 24th April 2017. However, there is no proof that the said document was either served upon or otherwise received by the Conciliation Officer.

5. After some arguments in the forenoon the case was passed over to facilitate the learned counsel for respondent no. 1 to bring to the court records of the proceedings before the Conciliation Officer. In the post-lunch session, the records have been produced and perused by the Court. It does

not contain any representation or application by the management before the Deputy Labour Commissioner/ Conciliation Officer in the conciliation proceedings. The proceedings record the signatures of all the claimants but the presence of counsel for the petitioner is not recorded on any date, although he submits that, he had appeared in the proceedings and had submitted the said letter. He does not specify the date on which he appeared before the Conciliation Officer nor is any reason offered as to why the letter was not marked as duly received, when it was allegedly tendered to the Conciliation Officer. Surely as a counsel he would be better placed to ensure that the document was brought on record when it was tendered to the office of the Deputy Labour Commissioner. If according to the petitioner, the proceedings before the Conciliation Officer were erroneously recorded, it was always open to it to have it rectified. However, no effort was made in this regard, perhaps because the petitioner did not find anything erroneous in the recording of the proceedings.

6. Lastly, despite repeated opportunities having been granted to the petitioner it chose not to bring these issues before the learned Labour Court in the claim proceedings. Quite clearly the petitioner did not contest the claim of the workmen. In the circumstances, the relief granted in the impugned order cannot be faulted. The Court finds no reason to interfere with it.

7. The petitions are without merit and are accordingly dismissed.

NAJMI WAZIRI, J

FEBRUARY 04, 2020

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