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

Date of decision: 16th December, 2020

+ **W.P.(C) 2211/2020 & CM APPL. 7736/2020**

M/S ICT SERVICE MANAGEMENT SOLUTIONS (INDIA) PVT.
LTD. Petitioner

Through: Mr. Satyabrata Panda and Ms. Deepa
Sinha, Advocates.

versus

GOVT. OF NCT OF DELHI LABOUR DEPARTMENT
AND ANR. Respondents

Through: Mr. Sudhir Kumar Ojha, Advocate.

With

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+ **W.P.(C) 7414/2020 & CM APPLs. 24803-04/2020**

M/S ICT SERVICE MANAGEMENT SOLUTIONS (INDIA) PVT
LTD Petitioner

Through: Mr. Satyabrata Panda and Ms. Deepa
Sinha, Advocates.

versus

GOVT. OF NCT OF DELHI & ANR. Respondents

Through: Mr. Sudhir Kumar Ojha, Advocate.

With

25

+ **W.P.(C) 7430/2020 & CM APPLs. 24832-33/2020**

M/S ICT SERVICE MANAGEMENT SOLUTIONS (INDIA) PVT
LTD Petitioner

Through: Mr. Satyabrata Panda and Ms. Deepa
Sinha, Advocates.

versus

GOVERNMENT OF NCT OF DELHI, LABOUR DEPARTMENT &
ANR. Respondents

Through: Mr. Sudhir Kumar Ojha, Advocate.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done by video conferencing.

2. Order dated 26th February, 2020 records the possibility of an amicable settlement in these matters. However, parties report that there has been no settlement.
3. The present writ petitions have been filed challenging awards dated 30th March, 2019 passed by the Labour Court, by which the relief of reinstatement with full backwages and continuity of service has been granted in favour of the Workmen. The case of the Petitioner/Management (*hereinafter, "Management"*) is that the Workmen have concealed all the relevant facts from the Courts below. According to the Management, the Workmen wilfully absented themselves from work for long periods and in view thereof, their services were validly terminated.
4. Id. counsel for the Management submits that recovery proceedings have now been initiated. Insofar as the reason for delay in approaching this Court is concerned, Id. counsel submits that the Management was not aware that the awards were passed and it is only when recovery proceedings were initiated that knowledge of the awards was acquired by the Management.
5. Mr. Ojha, Id. counsel for the Workmen submits that the Management had complete knowledge of the proceedings and despite that they chose to stay away from the proceedings.
6. A perusal of the impugned awards shows that the Management was duly served with the notice and the claims filed by the Workmen. The Management had, in fact, entered appearance and filed *vakalatnama* on 15th October, 2018. However, thereafter, they stopped appearing in the matters. They did not file their written statement and no evidence was led in the matters. This is clear from a reading of paragraphs 7 and 8 of the impugned awards and the same are extracted herein below:

“7. The management No.2 despite being served with the notice of claim petition and putting up appearance on 15.10.2018 and filing Vakalatnama failed to file WS despite opportunity granted to it and accordingly its defence was struck off vide order dated 25.03.2019.

8. The management No.1 did not appear before the court despite being served with the notice of claim petition and accordingly was proceeded ex-parte vide order dated 16.05.2018.”

7. While there is no doubt that the Management has been completely negligent in pursuing its defense, a perusal of the impugned orders also shows that there is no discussion on merits at all by the Id. PO- Labour Court. Since there is no discussion on merits at all and the endeavour of the Court ought to be to have adjudication on merits, keeping in mind the circumstances of these cases, the present writs are disposed of with the following directions:

- i. The entire awarded amount shall be deposited before the Labour Court by the Management within a period of six weeks from today;
- ii. Subject to the said deposit being made, the written statement shall be taken on record on the next date before the Labour Court;
- iii. The Management will be given one opportunity to lead evidence and file its documents.

8. Litigation expenses of Rs.20,000/- each shall be paid to the Workmen within six weeks. The bank account details of the Workmen shall be communicated by Mr. Ojha, Id. counsel to Mr. Satyabrata Panda, Id. counsel within two days.

9. Subject to compliance of the above directions, the impugned orders

are set aside. The Management shall be entitled to lead its evidence and the claims of the Workmen shall be decided in accordance with law. The matters shall be disposed of, within a period of six months from the first date of hearing before the Labour Court.

10. Parties to appear before the Labour Court on 29th January, 2021.

11. With these observations, the present petitions and all pending applications are disposed of.

**PRATHIBA M. SINGH
JUDGE**

DECEMBER 16, 2020

dj/T