

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.5126 OF 2024

Johari Digital Healthcare Limited	...Petitioner
<i>Versus</i>	
Pankaj Gupta	...Respondent

Mr. Haresh Shivdasani, Advocate, for the Petitioner.
Mr. P. M. Palshikar, Amicus Curiae.
Mr. Pankaj Gupta, Respondent in-person, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 18th DECEMBER 2024

P. C.:

1. Heard Mr. Haresh Shivdasani, learned Counsel appearing for the Petitioner, Mr. Pankaj Gupta, the Respondent, who appears in-person and Mr. Palshikar, learned Amicus Curiae.
2. This Court appointed Mr. P. M. Palshikar, learned Counsel of this Court as Amicus Curiae, as the Respondent is appearing in-person.
3. By the present Writ Petition filed under Article 226 of the Constitution of India, the challenge is to the legality and validity of the Award dated 27th March 2024 passed by the learned Presiding

Officer, 7th Labour Court, Mumbai in Reference (IDA) No.200 of 2018. The operative part of the Award dated 27th March 2024 is as follows:

“AWARD

(1) It is declared that the Second Party is a ‘workman’ under Section 2(s) of the Industrial Disputes Act, 1947.

(2) It is declared that the First Party terminated his services w.e.f. 01/08/2012 and the said termination is illegal and unjustified and stands quashed and set aside.

(3) It is declared that the Second Party is entitled to lump sum compensation of Rs.5,00,000/- (Rupees Five Lakh) in lieu of his claim in the present Reference proceeding.

(4) The copies of this award be sent to the Appropriate Authority for publication.

(5) No order as to costs.”

4. It is the submission of Mr. Haresh Shivdasani, learned Counsel appearing for the Petitioner that the Respondent has worked only for a period of about 2 months i.e. from June-2012 to July-2012 and he was appointed as “Area Sales Manager-Maharashtra Location”. He submitted that for the first time demand has been made by the Respondent on 16th January 2016 i.e. after a period of almost 3 and ½ years. He submitted that the

Respondent cannot be termed as workman under Section 2(s) of the Industrial Disputes Act, 1947(**“the said Act”**). He submitted that therefore, the Award is not legal and required to be quashed and set aside.

5. Mr. Pankaj Gupta, Respondent who appears in-person submitted that he was in the employment for two months and few days more and not two months as contended by the learned Counsel appearing for the Petitioner.

6. Mr. Palshikar, learned Amicus Curiae submitted that the duties of the Respondent clearly shows that the Respondent is workman within the meaning of Section 2(s) of the said Act. He submitted that therefore, the Award passed is legal, proper and just.

7. Perusal of the record shows that as arguable questions are raised, the Writ Petition is required to be admitted.

8. However, Mr. Haresh Shivdasani, learned Counsel appearing for the Petitioner states that in the facts and circumstances of this

case, the Petitioner, without prejudice to the rights and contentions of the Petitioner, is ready and willing to pay an amount of Rs.2,50,000/- which includes arrears of the salary dues, if any to the Respondent towards full and final settlement, if the Respondent withdraws all the claims. The said suggestion made by Mr. Shivdasani, learned Counsel of the Petitioner is very fair, reasonable and just.

9. The Respondent who is personally present in Court accepts the said suggestion. He has given a writing dated 18th December 2024 stating that he is accepting Rs.2,50,000/- as full and final settlement of his entire dues and there are no further claims. The said writing is taken on record and marked 'X' for identification.

10. Mr. Haresh Shivdasani, learned Counsel appearing for the Petitioner on instructions, made statement that the said amount of Rs.2,50,000/- will be paid by RTGS in the account of Respondent by tomorrow. The details of the bank account of the Respondent are as follows:

Bank Name	Branch Name	Account No.	IFSC Code No.
State Bank of India	S. V. Road, Andheri (W), Mumbai.	10218303652	04250

11. Accordingly, in the facts and circumstances of the case, the order dated 27th March 2024 passed by the learned Presiding Officer, 7th Labour Court, Mumbai in Reference (IDA) No.200 of 2018 is quashed and set aside, subject to above.

12. The proceedings initiated by the Assistant Commissioner of Labour, Mumbai in execution of Award also stands disposed of.

13. The Writ Petition is disposed of in above terms with no order as to costs.

14. This Court places on record appreciation for assistance rendered by Mr. P. M. Palshikar, learned Amicus Curiae.

[MADHAV J. JAMDAR, J.]

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