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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 475/2024

JAGDISH SHARMA

..... Appellant

Through: Mr. Pravin Sharma, Ms. Kanika
Sharma, Mr. Prannav Sharma, Ms. Kavita Sharma,
Advs.

versus

DEVYANI FOOD STREET (PVT) LTD. AND ANR Respondent

Through: Mr. Bharat Chugh, Mr. Prasoon
Shekhar, Advs. for R-1.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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31.05.2024

CM APPL. 34610/2024 –Ex.

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present appeal under Clause X of the Letters Patent seeks to assail the order dated 08.05.2024 passed by the learned Single Judge in W.P.(C) 15604/2022 insofar as the learned Single Judge has deferred hearing of the appellant's application under Section 17B of the Industrial Disputes Act (the Act) being CM No. 1405/2023 to 06.08.2024, for which date the writ petition has also been listed for disposal.
4. Learned counsel for the appellant submits that the learned Single Judge has failed to appreciate the objective of Section 17B of the Act



which envisages payment in the nature of a sustenance allowance to the workman during the pendency of the challenge to the industrial award. He, therefore, contends that the learned Single Judge ought to have taken up the application under Section 17B of the Act for disposal before listing the writ petition for final hearing.

5. Issue notice. Learned counsel for the respondents accepts notice and submits that hearing in the appellant's application was deferred only at the request of the appellant himself who had prayed for time to file rejoinder to the reply filed by the respondents to his application under Section 17B of the Act. The said contention is borne out from the record. In these circumstances, once the appellant himself had prayed for time to file rejoinder, we find absolutely no infirmity in deferring of the application. However, there is merit in the appellant's plea that the application under Section 17B of the Act ought to be taken up before the writ petition is finally decided.
6. We, accordingly, dispose of the appeal by directing that the appellant's application under Section 17B of the Act will be taken up for disposal by the learned Single Judge before disposal of the writ petition, even if the same are taken up on the same date.

REKHA PALLI, J

SAURABH BANERJEE, J

MAY 31, 2024/al