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

% *Date of decision: 29th August, 2024*

+ CM(M) 1695/2023 & CM APPL. 53740/2023 & CM APPL. 754/2024

SH. ASHOK MITTAL & ANR.Petitioners

Through: Mr. Randhir Jain, Advocate.
(through video conferencing)

versus

SH. MANJHI SAHURespondent

Through: Mr. Utsav Jain, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioners are the Management and defending a claim petition alleged to have been filed by its workman.

2. Following issues were framed by the learned Presiding Officer of the Labour Court on 20.01.2023:-

“(1) Whether there existed a relationship of employer and employee between the workman and management? OPW.

(2) Whether the services of the workman were terminated illegally and/or unjustifiably by the management and if so, to what consequential relief is the workman entitled for? OPW.

(3) Relief.”

3. According to the petitioner (Management), there is no relationship of employer and employee between the parties and, therefore, the abovesaid issue should be treated as a preliminary issue.



4. When the abovesaid request was made by the Management before the learned Trial Court, it was of the view that there was no requirement of treating any issue as preliminary issue and, accordingly, dismissed the abovesaid request.
5. Such order is under challenge.
6. Evidently, such issue is not a legal one and requires leading of evidence as well.
7. Indubitably, it is always obligatory for any such workman to place on record definite material before the concerned Court in order to show and establish the relationship of employer and employee between the parties. Unless and until such relationship is not substantiated, the claim would not succeed at all.
8. During course of the arguments, Sh. Randhir Jain, learned counsel for the Management submitted that he may be permitted to confine his cross-examination only limited to the aforesaid aspect touching such relationship between the parties. However, there is no point in having a piecemeal trial and it will be appropriate if all the issues are adjudicated in one go, instead of there being a fragmented trial. Things would have certainly different if the issue could have been decided merely on the basis of pleadings and arguments alone. As per workman, such relationship exists whereas Management's stand is to the contrary. Such factual dispute can be resolved through trial only.



9. Viewed thus, this Court does not find any merit in the present petition and accordingly, the petition is, hereby, dismissed.

(MANOJ JAIN)
JUDGE

AUGUST 29, 2024/st