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

+ **W.P.(C) 15432/2024**

ANWARUL HAQUE

.....Petitioner

Through: Mr. Vaibhav Kalra and Ms. Neha
Bhatnagar, Advocate

versus

MS SHAPPORJI POLLONJI AND CO PVT LTDRespondent

Through: None

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

% **06.11.2024**

[Physical Hearing/Hybrid Hearing (as per request)]

CM APPL. 64773/2024 & CM APPL. 64774/2024 (exemption)

1. Allowed, subject to all just exceptions.

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2. The petitioner has assailed dismissal of his claim petition under Section 33C (2) of the Industrial Disputes Act for non-prosecution. Since in the original proceedings, the respondent management was yet to be issued notice, there is no need to issue notice in the present case.

3. As reflected from record, despite three adjournments, neither the fresh/complete address of the respondent management was filed by the petitioner workman nor anyone appeared on his behalf on 11.09.2023. That led the learned Labour Court believe that the petitioner is no longer interested to proceed further. As such, the claim petition was dismissed for non prosecution.



4. The petitioner workman could have sought restoration of the petition by moving an application before the Labour Court but was advised to approach this Court directly through this writ action. In my view, it would not be appropriate to send the workman back to the Labour Court for restoration of his claim because it was not his fault to approach this Court directly and was apparently under mistaken legal advice.

5. As regards the merits of the issue, no doubt, the petitioner workman was in default. But the Court should always keep in mind the cardinal principle of justice that disputes should decide on merits instead of defaults. Besides, in view of the socio economic disparity between a workman and the management, the Court should be sensitive qua the inability of the workman to locate necessary particulars.

6. Considering these circumstances, the present petition is allowed, thereby setting aside the impugned order of dismissal of the claim petition. But the petitioner workman is warned to be diligent in future.

7. The claim petition of the petitioner is restored to its original status. The petitioner shall appear before the concerned Labour Court on 02.12.2024 for further proceedings. Copy of this order be sent to the concerned Labour Court.

GIRISH KATHPALIA, J

NOVEMBER 6, 2024/as

[Click here to check corrigendum, if any](#)