



2024:DHC:8229



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Decision delivered on: 23.10.2024**+ **W.P.(C) 7298/2018 & CM APPL. 27867/2018**

SANJAY AGGARWAL

.....Petitioner

Through: Mr. Harsh Khanna and Harish  
Pandey, Advocate

versus

GOVT. OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Harshul Mehta, Advocate for  
R1&2**CORAM:****JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The petitioner, sole proprietor of M/s Jyoti Enterprises has filed this petition to challenge order dated 04.07.2017 of the Authority under the Delhi Shops and Establishments Act, whereby the petitioner was directed to pay a sum of Rs. 1,03,461/- to the present respondent no. 3 and a sum of Rs. 10,000/- to the present respondent no. 4 towards their due and unpaid wages in addition to a sum of Rs. 100/- to each of them towards compensation. The respondents no. 1 & 2 are the labour authorities. The respondents no. 3 & 4 did not appear despite service of notice. I heard learned counsel for petitioner and examined the digitized record of the concerned authority.

2. Briefly stated, the circumstances leading to the present petition are as follows:

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2.1 The present respondents no. 3 and 4 filed claim applications dated 25.07.2016 under Section 21(2) of the Delhi Shops and Establishments Act 1954, claiming that they had been working as Project Manager and Operator respectively with the present petitioner; that the last drawn monthly wages of the present respondent no. 3 were Rs. 30,000/- and the same of the present respondent no. 4 were Rs. 10,000/-; that the present petitioner did not pay wages to the tune of Rs. 1,03,461/- to the present respondent no. 3 for the period from 01.07.2015 to March 2016; that the present petitioner did not pay wages to the tune of Rs. 10,000/- to the present respondent no. 4 for the period from 01.07.2015 to 16.10.2015; that the present respondents no. 3 & 4 issued a demand notice on 30.06.2016, but the same was ignored by the present petitioner.

2.2 The present petitioner, on being summoned by the concerned authority, entered appearance and filed a written statement, pleading therein that there is no relationship of the present petitioner with the present respondents no. 3 & 4; that the present respondents no. 3 & 4 did not report for duty from August 2015, and for July 2015, their salary was transferred into their bank account; that two months after July 2015, the present petitioner called upon the present respondents no. 3 & 4 to join back the duty but they did not do so; that since salary of both respondents no. 3 & 4 stands paid for the period till July 2015, after which they left job, no amount is due to them.



2.3 The present respondents no. 3 & 4 filed rejoinder, denying the pleadings of the present petitioner and reaffirmed their claim.

2.4 On the basis of rival pleadings, the concerned authority framed two issues and posted the matter for trial. Both the present respondents no. 3 & 4 stepped into the box and were cross examined by learned counsel for the present petitioner. But thereafter the present petitioner stopped participating in the trial and was proceeded ex-parte.

2.5 On the basis of evidence adduced during trial, the concerned authority passed the impugned order.

3. During arguments today, learned counsel for petitioner has taken me through the above record and it is contended that the concerned authority erred in ignoring the chief examination affidavit of the present petitioner, which forms part of the trial court record. It is further contended that cross examination of the present respondents no. 3 & 4 in itself proves the case set up by the present petitioner.

4. As regards the chief examination of the present petitioner, there cannot be any dispute that mere filing a chief examination affidavit in the proceedings is not sufficient. The witness has to appear physically or virtually in the proceedings, tender the chief examination affidavit and offer himself for cross examination. It is trite that the evidence is constituted by the chief examination, cross examination and re-examination, if any. In the



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present case, admittedly, the present petitioner did not even tender his chief examination affidavit, what to say of offering himself for cross examination.

5. As regards cross examination of the present respondents no. 3 & 4, learned counsel for the petitioner has taken me through the same, but I find nothing to suggest that claim of the present respondents no. 3 & 4 is not genuine. Rather, it would be interesting to note that in his written statement, the present petitioner on the one hand stated that there is no relationship of the petitioner with the respondents no. 3 & 4 and in the same breath, it is pleaded that salary was paid to them till July 2015.

6. I am unable to find any infirmity in the impugned order, so the same is upheld and the present petition as well as pending application are dismissed.

**GIRISH KATHPALIA**  
**JUDGE**

**OCTOBER 23, 2024/as**

*Click here to check corrigendum, if any*