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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1574/2024, CM APPL. 6546/2024**

KULJEET SINGH CHADHA

.....Petitioner

Through: Ms. Meghna De, Ms. L. Gangmei,
Ms. Surbhi Bagra and Mr. Ritwik Raj,
Advocates.

versus

**THE MANAGEMENT OF IBM INDIA PVT
LTD**

.....Respondent

Through: Ms. Raavi Birbal, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

08.05.2025

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1. By way of present writ petition filed under Articles 226/227 of the Constitution of India, the petitioner seeks setting aside of order dated 31.08.2021 and award dated 18.11.2022 in I.D. No. 1069/2016 passed by Ld. Presiding Officer, Industrial Tribunal-01, Rouse Avenue District Court, New Delhi.
2. Learned counsel for the petitioner submits that during the pendency of the proceedings before it, learned Tribunal, vide its order dated 04.09.2018, framed following issues:-

“i) Whether the claimant is a workman as defined under section 2S of the ID Act. (As amended up to date?) OPW.

ii) Whether the claim of the workman is properly espoused by the Union? OPW.



iii) As per terms of reference. OPW.”

3. Learned counsel further submits that though Ld. Tribunal observed in its order dated 04.09.2018 that Issue No.1 be considered as a preliminary issue however subsequently, on 31.08.2021 it was observed that the same could only be decided after the parties have led evidence. It is stated that instead of permitting the parties to lead evidence, the impugned Award came to be passed only considering the Issue No.2 whereby it has been held that there was no espousal on the record.

Ld. Counsel assails the findings on Issue No.2 by contending that during the pendency of conciliation proceedings before the Dy. Labour Commissioner, the petitioner had filed the espousal. A copy of the same has been placed on record in the present writ petition as Annexure P-7. In this backdrop, learned counsel prays that the matter be remanded back to the Tribunal for consideration afresh.

4. Ms. Birbal, Ld. Counsel appearing for the respondent, on instructions, states that she has no objection to the prayer made, however, submits that the petitioner has not approached the Court with clean hands. She submits that neither in the proceedings pending before the Ld. Tribunal nor in the review application, the petitioner plead a case of espousal. On the contrary, in the review application it was rather stated it to be a case under Section 2A of the Industrial Disputes Act, 1947.

5. From above, while the petitioner claims that the Ld. Tribunal has not gone through the documents filed in the conciliation proceedings, the respondent pleads otherwise. Be that as it may, in the fitness of things, it is deemed apposite that in the light of what has been argued hereinabove, the



impugned order of the Tribunal is set aside and the matter is remanded back to the Tribunal for consideration afresh.

6. At this stage, it is informed that petitioner has also filed separate proceedings alleging apprehension of termination, which is stated to be pending before the Tribunal.

7. Needless to state that this Court has not expressed any observation on the merits of the case and the Tribunal will consider the case on its own merits uninfluenced by the observations, if any, made by this Court hereinabove.

8. Petition alongwith pending application is disposed of.

MANOJ KUMAR OHRI, J

MAY 8, 2025

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