



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

% Date of Decision: 01.07.2025

+ **W.P.(C) 8685/2025 and CM APPLs 37213-14/2025**

CHAWLA REXINE

.....Petitioner

Through: Mr. Jitesh Sharma, Advocate.

versus

VISHNU DEV PRASAD & ANR

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present petition, the petitioner seeks setting aside of award dated 06.03.2025 (hereinafter, '*impugned award*') and orders dated 23.11.2021 and 03.05.2025 (hereinafter, '*impugned orders*'), passed by the Ld. Presiding Officer, Labour Court-III, Rouse Avenue District Court, New Delhi in LIR No. 595/2020.

Notably, vide order dated 23.11.2021, the petitioner was proceeded *ex parte* and later, vide the impugned award passed on 06.03.2025, the petitioner was directed to pay a lump sum compensation of Rs.1,00,000/- in lieu of reinstatement, notice pay, service compensation and cost of litigation. The respondent No.1 was also awarded 100% back wages at the rates of minimum wages notified by Govt. of NCT of Delhi from time to time for the category of unskilled worker, w.e.f. 09.01.2019 till the date of the said award. Subsequently, the application challenging the said impugned award also came to be dismissed vide order dated 03.05.2025.



2. Briefly stated, the facts of the present case are that, as per the Statement of Claim dated 13.03.2020 filed by respondent No.1/workman, claimed that he entered into employment with the petitioner/proprietorship firm on 05.04.2005 in the capacity of ‘Sales field boy’ and that his last drawn wage was Rs.10,000/-. On 09.01.2019, the service of respondent No.1 was terminated on account of his alleged misconduct, and the said termination was challenged by respondent No.1 by filing claim under the Delhi Shops & Establishment Act, seeking reinstatement and back wages from the petitioner.

Apparently, the petitioner failed to appear before the Labour Court despite service of the said Statement of Claim, and was subsequently proceeded *ex parte* vide order dated 23.11.2021.

3. Before this Court, learned counsel for the petitioner makes a two-fold submission; *firstly*, that the parties had entered into a settlement on 24.04.2019, the factum of which was concealed by the workman before the Labour Court. *Secondly*, that the petitioner did not receive any summons or notice in respect of the Statement of Claim filed by the workman as the workman failed to provide the correct address, i.e., 5314, Hardhyan Singh Road, Karol Bagh, New Delhi-110005.

4. As regards the first contention, learned counsel for the petitioner submits that in terms of settlement, the Management had agreed for respondent’s reinstatement w.e.f 25.04.2019 as well as amount of Rs.35,000/-. The entire aspect of settlement and receipt of Rs. 35000/- was not disclosed by the workman in the claim. The respondent did not adhere to the terms of settlement as he not only failed to join the petitioner firm but also, instituted the proceedings before the Labour Court.



5. As regards the second contention, learned counsel submits that the respondent deliberately did not mention the petitioner's correct address in its statement of claim. The respondent was aware that the petitioner had shifted to a new address. The summons/demand notice were sent at 6730, *Block No. 10, Pyare Lal Road, Dev Nagar, Karol Bagh, New Delhi-110005* whereas the petitioner's address after shifting is 5314, *Hardhyan Singh Road, Karol Bagh, New Delhi-110005*. Moreover, only at the stage of final arguments before the Labour Court, when the workman had filed an application under Section 11(3)(b) of the Industrial Disputes Act, that the petitioner was served at the correct address, as a result of which, it became aware of the said proceedings. In this regard, reference is made to order dated 18.03.2024 passed by the Labour Court. It is thus contended that the petitioner was denied an opportunity to effectively represent itself and and refute the claim of the workman on merits, thus, making the impugned award illegal and erroneous in law.

6. Having heard learned counsel for the petitioner, a perusal of the impugned order shows that the Labour Court noted that a notice of the Statement of Claim was duly served upon the Management on 11.10.2021, at 6730, *Block No. 10, Pyare Lal Road, Dev Nagar, Karol Bagh, New Delhi-110005*. Furthermore, notice pertaining to the application filed on behalf of the workman under Section 11(3)(b) of the Industrial Disputes Act was again served at the aforementioned address and subsequently, on 23.04.2024, the owner of the management was served personally at his fresh address. Pertinently, no application seeking recall of the *ex parte* order dated 23.11.2021 was filed by the petitioner even after gaining due knowledge of the pendency of claim proceedings. Moreover, the petitioner, in his affidavit



filed before the Labour Court and in the bail-bonds dated 19.09.2024, has mentioned the earlier address, i.e., *6730, Block No.10, Pyare Lal Road, Dev Nagar, Karol Bagh, New Delhi*. Additional documents placed on Labour Court records in the form of a driving license of the proprietor of the petitioner firm, issued on 01.06.2021 which is much after the alleged date of shifting out of the said premises, evidently mentions the same address. It is, therefore, apparent that the petitioner remained in possession and occupation of the said premises, even if used for a different purpose. In fact, the petitioner has itself admitted to be in continuous usage of the premises, albeit as a godown for the purpose of storage. Therefore, the petitioner's contention pleading ignorance of the proceedings before the Labour Court on account of shifting of premises and non-service of notice, is misplaced. Concededly, the petitioner was served in an application at the new address, still it chose not to seek remedial steps.

7. Insofar as second contention on factum of concealment of the settlement agreement is concerned, the same is found to be misplaced. In fact, in the impugned award, the Labour Court has taken note of the same and rather the settlement deed was exhibited as Ex.WW1/6. It was also noted that pursuant to the said settlement, even though the petitioner had initially allowed the workman to resume his duties on 25.04.2019, however, his services were again terminated on 30.04.2019. Therefore, there was no failure to comply with the settlement on behalf of the workman. The testimony of the workman remained consistent and uncontroverted as neither any evidence was led nor the workman was cross examined by the petitioner. The impugned order records that the AR of the Management had duly appeared in the proceedings before passing of the impugned award and



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also filed an affidavit wherein the Management claimed that the employment of the workman started only from 10.04.2014. In light of its laid back conduct, the petitioner/management cannot be allowed to challenge the same at such a belated stage.

8. In view of the aforementioned facts and circumstances, I find no merit in the present petition and the same is accordingly dismissed.

MANOJ KUMAR OHRI
(JUDGE)

JULY 1, 2025/rd