



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

% Date of Decision: 17.07.2025

+ **W.P.(C) 10098/2025, CM APPL. 42032/2025 (stay)**
CM APPL. 42033/2025 (exemption)

RAJEEV JAIN

.....Petitioner

Through: Mr.M.N. Siddiqui, Mr.Vishnu Sharma,
Mr.Sumit Jain and Ms.Venika Nim, Advocates

versus

HARISH MISHRA

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present petition has been filed under Articles 226 and 227 of the Constitution of India challenging the award dated 28.10.2024 (hereinafter, 'impugned award') passed by the Presiding Officer, Labour Court-01, Rouse Avenue Courts, New Delhi in LIR No. 6213/16. Vide the impugned award, the Labour Court held that services of the respondent/workman were terminated illegally and directed reinstatement of the respondent with full back wages and consequential benefits.

2. As per the statement of claim, the respondent was employed with the petitioner's firm– M/s Rajeev & Brothers – since 2003 as an Accountant, with last drawn salary of Rs.25,000/- per month. The respondent alleged that he was not provided legal facilities, including appointment letter, leave book, payslip, bonus, etc., and that upon his demand for the same, his



services were terminated on 23.07.2014. A demand letter dated 28.07.2014 was sent to the management seeking reinstatement and payment of outstanding dues. Subsequently, a complaint was made to the Labour Inspector on 21.08.2014. As the matter could not be settled in conciliation, it was referred to the Labour Court vide order dated 20.07.2015. Thereafter, the impugned award was passed on 28.10.2024.

3. Learned counsel for the petitioner/management submits that the respondent had actually voluntarily left the service to avoid repaying an advance of Rs.1,95,981/- and to evade a pending complaint of theft. It is further submitted that the respondent has not adduced any evidence as to the steps taken by him to secure re-employment and considering his educational qualifications, it is highly improbable that he was unable to secure employment after abandoning his job with the petitioner management. Lastly, it is submitted that though the AR of the management failed to discharge his duty diligently before the Labour Court, the onus of proof was actually on the respondent/workman.

4. A perusal of the impugned proceedings would show that the respondent, in support of his claim, tendered his evidence by way of affidavit (Ex. WWI/A) and relied upon documents including the demand notice (Ex. WW1/1), courier receipt (Ex. WW1/2), complaint to Labour Inspector (Ex. WW1/3), and Action Taken Report (Ex. WW1/4). On being served with summons, the management was initially represented and even a written statement was filed on its behalf. In fact, the cross-examination of the workman was initially deferred on the request of the management.



However, the management failed to cross-examine the workman despite repeated opportunities. They were proceeded *ex-parte* vide order dated 31.03.2023 and the workman's evidence was closed. The management then filed an application under Order IX Rule 7 CPC for setting aside the *ex-parte* order which was allowed on 18.09.2023 and the management was permitted to cross-examine the workman. Nevertheless, they again failed to do so and their right to cross-examine was finally closed vide order dated 25.01.2024.

5. Furthermore, the record reveals that an application moved by the workman seeking production of documents, including the attendance register and wage register, was allowed vide order dated 16.04.2019 and the management was directed to produce the said documents or file an affidavit in case of non-availability on or before 16.08.2019. However, no compliance ensued on behalf of the management in this regard either. Eventually, despite repeated opportunities, since the management failed to either cross-examine the workman or lead any evidence, their right to lead evidence stood closed by order dated 08.07.2024.

6. From the record, it is evident that neither the employer-employee relationship nor the last drawn salary is in dispute. The respondent's version as to the date and manner of termination also remains un-rebutted due to no cross examination or leading of evidence by the management. The management failed to discharge the burden of proving abandonment or misconduct. Putting the blame on the AR would not absolve the management of its obligations. The management further failed to prove that the respondent was gainfully employed and considering the 11 years of



2025:DHC:5893



service of the respondent, the Labour Court granted the relief of reinstatement.

7. Therefore, in view of the above facts and circumstances, this Court finds no ground to interfere with the impugned award. Consequently, the writ petition is dismissed alongwith pending applications.

MANOJ KUMAR OHRI
(JUDGE)

JULY 17, 2025/ga
(corrected & released on 22.07.2025)