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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 7279/2020 and CM APPL. 24537/2020

M/S TECHNOMEN PROP. SH. SANJEEV KUMARPetitioner

Through: Mr. Satvinder Singh, Mr. Gagandeep Singh, Mr. Piyush Singh, Mr. Yash Chopra, Ms. Simran Gubiani and Mr. Neil Mukherjee, Advocates

versus

SH. GAUTAM & ANR.

.....Respondents

Through: Mr. Mohd. Akramur Rehman and Mr. Biswambar Nayak, Advocates for respondent No.1
Mr. Mukti Bodh and Ms. Mala Diwadi, Advocates for respondent No.2

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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30.03.2026

1. The present petition has been filed assailing the *ex-parte* award dated 07.12.2019 passed by the learned Labour Court-V, Rouse Avenue Courts, New Delhi, whereby the Workman has been held entitled to reinstatement with full backwages, along with continuity of service and all other consequential benefits, with interest @ 9% per annum on the amount payable in case of default.
2. Briefly, the Workman had preferred a claim application, inter alia, stating that he was employed as a sweeper with the management since 01.01.2008 and was drawing salary of Rs. 5,400/- per month. It was further claimed that the management did not provide him statutory benefits such as appointment letter, leave, overtime, bonus and other allowances, and when



the same were demanded, his services were terminated on 31.07.2013 without any notice or payment of earned wages. It was also claimed that a demand letter dated 01.08.2014 seeking reinstatement and payment of dues was sent, however, the same was neither replied to nor complied with. Additionally, the Workman approached the Labour Authorities and raised a dispute regarding non-payment of minimum wages and other dues, which proceedings were also undertaken before the competent authority.

3. Learned counsel for the petitioner contends that the impugned award was passed *ex-parte* without proper service, as an incorrect address was furnished by the Workman. It is submitted that the petitioner was denied an opportunity to present its case, and that material facts, including prior settlement and payment of dues, were not considered. It is further contended that there was no employer-employee relationship and that the Workman had himself left the job. It is also submitted that the Workman failed to disclose the settlement arrived at with Respondent No. 2, wherein he had received the entire amount of bonus and difference of minimum wages.

4. *Per Contra*, learned Counsel for the respondent no.1/Workman supports the impugned award and submits that he was duly employed with the Management and his services were terminated illegally. It is contended that the petitioner despite being served failed to appear before the Labour Court and was rightly proceeded *ex-parte*.

5. The record reflects that the petitioner was proceeded *ex-parte* by the learned Labour Court. However, there is no clear material to demonstrate that proper and effective service of notice was ever effected upon the petitioner. The record does not indicate that the notice was served at the correct address.



6. In this regard, a comparison of the addresses mentioned in the claim proceedings and the subsequent execution proceedings reveals a material discrepancy. While in the claim petition the address of the petitioner was shown at *Kalkaji, New Delhi*, in the execution proceedings under Section 33-C(1) of the Industrial Disputes Act, 1947, the Workman furnished additional addresses of the petitioner.

7. In view of the above, a reasonable doubt arises as to whether the petitioner was effectively served in the original proceedings at the correct address, thereby depriving the petitioner of an opportunity to appear and contest the case.

8. The requirement that anyone likely to be affected by an order must be afforded an opportunity of hearing is well settled. In *State of Orissa v. Binapani*¹, the Supreme Court held that even an administrative decision having civil consequences must be preceded by informing the person concerned of the case against him and giving him an opportunity to meet the same. Similarly, in *Canara Bank v. Debasis Das*², the Supreme Court reiterated that notice and opportunity of hearing constitute the minimum requirements before any adverse decision is taken against a party. Again, in *Uma Nath Pandey v. State of U.P.*³, it is held that where such opportunity is denied, the decision itself cannot be sustained.

9. The Supreme Court in *Anil Sood v. Presiding Officer, Labour Court II*⁴ has held that an *ex-parte* award passed without affording a party due opportunity to defend is a nullity, and the Labour Court has the power to set

¹ 1967 SCC OnLine SC 15

² (2003) 4 SCC 557

³ (2009) 12 SCC 40

⁴ (2001) 10 SCC 534



aside such an award where sufficient cause is shown for non-appearance. The Court further emphasized that adjudication must be carried out in accordance with principles of natural justice and without arbitrariness. The relevant paragraphs are reproduced hereinbelow:-

“6. The aspect that the party against whom award is to be made due opportunity to defend has to be given is a matter of procedure and not that of power in the sense in which the language is adopted in Section 11. When matters are referred to the tribunal or court they have to be decided objectively and the tribunals/courts have to exercise their discretion in a judicial manner without arbitrariness by following the general principles of law and rules of natural justice.

7. The power to proceed ex parte is available under Rule 22 of the Central Rules which also includes the power to inquire whether or not there was sufficient cause for the absence of a party at the hearing, and if there is sufficient cause shown which prevented a party from appearing, then if the party is visited with an award without a notice which is a nullity and therefore the Tribunal will have no jurisdiction to proceed and consequently, it must necessarily have power to set aside the ex parte award.

8. If this be the position in law, both the High Court and the Tribunal (sic Labour Court) fell into an error in stating that the Labour Court had become functus officio after making the award though ex parte. We set aside the order made and the award passed by the Labour Court and affirmed by the High Court in this regard, in view of the fact that the learned counsel for the respondent conceded that application filed by the appellant be allowed, set aside the ex parte award and restore the reference. To decide the matter afresh, the parties shall appear before the Labour Court on 11-12-2000 to take further directions as regards the proceedings. As the matter is very old, it would be appropriate for the Labour Court to dispose of this reference as expeditiously as possible but not later than six months from today.”

10. It is further noted, vide order dated 19.01.2026, this Court had imposed an additional cost of Rs.10,000/- to be paid to Respondent No.1 towards litigation expenses. It is submitted by the learned counsel for the petitioner that the said cost has since been duly paid.



11. Accordingly, keeping in view the principles laid down in the aforementioned decisions and the facts of the case, the matter is remanded to the concerned Labour Court for fresh consideration in accordance with law, after issuing proper notice to all concerned parties and affording them an opportunity to file their pleadings and lead evidence. It is clarified that this Court has not expressed any opinion on the merits of the contentions.

12. In view of the aforesaid, the present petition is allowed and the matter be listed before the concerned Labour Court at the first instance on 13.04.2026.

13. Accordingly, the present petition is disposed of in the above terms alongwith the pending application.

MANOJ KUMAR OHRI, J

MARCH 30, 2026
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