



2026:DHC:552



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

% Date of Decision: 14.01.2026

+ **W.P.(C) 17481/2022 and CM APPL. 55773/2022**

M/S AMAZON DISTRIBUTORS (P) LTDPetitioner

Through: Mr.Om Prakash Gupta, Advocate

versus

AJAY TIWARI

.....Respondent

Through: Mr.Rahul Sagar Sahay, Mr.Raghav
Rajmalani and Mr.Pratham Arora, Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present petition, the petitioner seeks setting aside of the award dated 08.03.2022 (hereinafter, referred to as the '*impugned award*'), passed by Authority under the Delhi Shops & Establishment Act, 1954 (hereinafter, referred to as the '*the Act*'), in SE/ED/19/2020/12013.

Notably, vide the impugned award passed on 08.03.2022, the petitioner was directed to pay the respondent, a sum of Rs.50,291/-, being the respondent's due earned wages alongwith additional compensation of Rs. 2,000/- as a penalty imposed upon the petitioner for illegally withholding his wages for the period 01.12.2019 to 15.01.2020. The petitioner was further directed to pay the said amount within 30 days from the date of passing of the impugned order, failing which recovery proceedings would be initiated as per the provisions of Section 21 of the Act. Subsequently, the operation of the impugned award came to be stayed by this Court vide order dated 21.12.2022.



2. Briefly stated, the facts of the present case are that the respondent entered into employment with the petitioner company on 10.03.2008, in the capacity of a 'Field Officer' and that his last drawn wage was Rs.33,000/-. The petitioner withheld the respondent's earned wages for the month of December 2019 and 28 days of January 2020. Thereafter, on 28.01.2020, the services of the respondent were terminated due to his alleged usurpation of a sum of Rs.33,00,000/- from various customers of the petitioner company during the period between 16.06.2019 to 06.12.2019. This was challenged by the respondent by filing a claim application, under the Delhi Shops & Establishment Act, seeking payment of his due earned wages of Rs. 68,538/- alongwith interest from the petitioner.

3. Learned counsel for the petitioner makes a two-fold submission; firstly, that in December 2019, the respondent admitted to misappropriation and embezzlement of funds entrusted to him by the customers of the petitioner and the petitioner company itself, by way of a handwritten letter. The contents of the said admission letter were also confirmed by the respondent, in his cross-examination dated 15.02.2021. Secondly, in further acknowledgment of his liability arising out of the embezzlement, the respondent had issued three cheques, amounting to Rs. 8,00,000/- each in favour of the Petitioner, towards repayment of the misappropriated amount, however, the said cheques were dishonoured due to insufficient funds, pursuant to which proceedings under the Negotiable Instruments Act, 1881 were initiated for recovery of the amount. He further submits that in view of the respondent's admitted liability and the substantial financial loss suffered, the petitioner was entitled to withhold the respondent's wages as a lawful set-off against the losses suffered, thus, making the impugned award



erroneous.

4. Learned counsel for the respondent, per contra, submits that the reliance placed by the petitioner on the alleged letter of admission is wholly misconceived, inasmuch as the respondent has consistently disputed the authenticity of the said document. It is contended that although the respondent has admitted his handwriting and signatures on the document, he has categorically stated, both in his affidavit and during cross-examination, that the said document was obtained under coercion and force. It is further submitted that while allegations of embezzlement were raised by the petitioner, no guilt had been established, and in any event, Section 9 of the Delhi Shops & Establishments Act, 1954 does not permit deduction or withholding of earned wages on the basis of such allegations.

5. Having heard learned counsel for the parties and upon a perusal of the record shows that insofar as the reliance placed on the letter of admission is concerned, the same is found to be misplaced. The affidavit filed on behalf of the respondent which is placed on record reflects that the respondent has categorically asserted that he discharged his duties with honesty and integrity throughout his tenure and his services were terminated abruptly. The same was reiterated in the rejoinder filed on behalf of the respondent, which is also placed on record, wherein he categorically denied the alleged embezzlement, as well as, issuing the said cheques in favour of the petitioner. During his cross-examination dated 15.02.2021, although the respondent, admitted that the handwriting and signature on the admission letter were his, he unequivocally deposed that the said document was obtained from him under coercion and force by the petitioner. In support of this assertion, the respondent has placed on record a police complaint



lodged, against the petitioner, at Police Station GTB Enclave under Section 156(3) of the Code of Criminal Procedure, 1973.

Lastly, is it noted that with respect to the alleged three cheques no evidence has been placed on record substantiating their issuance, dishonour, or any other details, thereby rendering making the petitioner's case unsubstantiated.

6. The burden of proving the alleged embezzlement squarely lies upon the petitioner, who was required to establish the same through cogent and reliable evidence. A mere purported admission document from the respondent, particularly when its voluntary nature is under dispute, cannot be treated as conclusive proof of guilt unless duly corroborated by independent and substantive evidence. In these circumstances, the foundational issue as to whether any act of embezzlement was, in fact, committed by the respondent remains a matter requiring determination by the competent investigative authorities. In the absence of any such adjudication or material evidence conclusively establishing misappropriation, the petitioner cannot, at this stage, be permitted to assail the impugned award.

7. In view of the aforementioned facts and circumstances, I find no merit in the present petition and the same, along with the pending application, is accordingly dismissed.

MANOJ KUMAR OHRI
(JUDGE)

JANUARY 14, 2026

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