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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 07.04.2025*+ **W.P.(C) 3609/2023 & CM Appls.13967/2023**

L.N. PETROCHEM PVT. LTD.Petitioner

Through: Mr. Dhruv Dwivedi, Adv.

versus

STATE OF NCT DELHI AND ANRRespondents

Through: Ms. Avni Singh, Panel Counsel with
Mr. Rushikant, Adv. for R-1.Ms. Jyoti Rana, Mr. Jatin Nagar, Ms.
Dipti Singh and Mr. Sushil Kumar,
Adv. for R-2.**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.:** (Oral)**CM Appl.21060/2023**[To take additional affidavit on record]

1. This is an Application filed on behalf of the Petitioner to take on record the additional affidavit filed on behalf of the Petitioner.
2. For the reasons as stated in the Application, the same is allowed. The additional affidavit is taken on record.
3. The Application stands disposed of.

W.P.(C) 3609/2023 & CM Appls.13967/2023[Stay]

4. The present Petition has been filed under Article 226 read with Article 227 of the Constitution of India impugning the order dated 22.12.2017 [hereinafter referred to as "Impugned Order"] passed by the Authority under the Delhi Shops and Establishment Act, 1954 [hereinafter referred to as "Act"]. By the Impugned Order, the Petitioner has been directed to make a



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payment in the sum of Rs. 1,03,000/- to the Respondent No. 2 within 30 days.

5. By an order dated 13.07.2023, a Coordinate Bench of this Court directed that no coercive steps be taken against the Petitioner upon deposit of the awarded amount of Rs. 1,03,000/-. It is contended that the said amount has since been deposited by the Petitioner.

6. Learned Counsel for the Petitioner submits that the Impugned Order is bad in law. He contends that the proviso to Section 21(2) of the Act sets out that the claim under the Act should be filed within a period of one year from the date of claim.

6.1 It is contended that the claim was with respect to wages for August, 2013, 12th September 2013 to February 2014 (for work done Gujarat), December 2013 and January 2014 (for work done Delhi), April 2014 and May 2014 (for work done in Gujarat) and July, 2014 (for work done in Delhi). The Claim Petition was admittedly filed on 31.01.2017. Secondly, it is contended that the Trial Court did not have territorial jurisdiction to entertain the Claim Petition. Respondent No. 2 was employed at the factory of the Petitioner at Ghaziabad, Uttar Pradesh. It is contended that no cause of action arose in the city of New Delhi.

6.2 Reliance is placed by the Petitioner on the judgment passed by a Coordinate Bench of this Court in the case of ***Bhandari Builders Pvt. Ltd. v. M.K. Seth and Ors.***¹ to submit that in similar circumstances, this Court had dismissed the Claim Petition on account of the fact that the Petitioner therein cannot be considered as an establishment under the Act as the office of the

¹ 1987 SCC OnLine Del 445



Petitioner in Iraq cannot be considered as an Establishment in Delhi.

6.3 Lastly, it is contended, even on merits, no amounts are due to the Respondent No. 2. It is stated that the Respondent No.2 worked from 10.07.2013 till 31.03.2014 and the salary was credited in his account for the said period. Reliance is placed on paragraph 5 of the Writ Petition in this behalf. The relevant extract is set out below:

*“It is submitted that Respondent no. 2 salary was fixed at **Rs.10,000/- per month** starting from 10.07.2013. The Respondent no. 2 worked as temporary employee from the Ghaziabad Establishment for the period of **10.07.2013 to 31.03. 2014**. Thus, for the above period Respondent no. 2 was paid directly to his bank account. The salary of nine months remitted to the Respondent no. 2 bank account, for which ledger has been maintained by the Petitioner. Further the copy of the passbook of Respondent no. 2 also reflects the salary received from Petitioner. For reference the salary paid to Respondent no. 2 is tabulated below for reference:*

S. No.	Date of credit of salary in Respondent No. 2 account	For the month	Payment
1.	12.08.2013	July 2013 (for 22 days starting from 10.07.2013)	Rs. 7,340/-
2.	13.09.2013	August 2013	Rs. 10,000/-
3.	9.10.2013	September 2013	Rs. 15,000/-
4.	10.12.2013	October 2013 and November	Rs. 20,000/-
5.	01.03.2014	December 2013, January 2014 & February 2014	Rs. 25,000/-
6.	15.03.2014	March 2014	Rs. 10,000/-
		Total	Rs. 87,340/- (Rupees eighty seven thousand three hundred and forty only)”

[Emphasis supplied]



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7. Learned Counsel for the Respondent No.2, on the other hand, submits that the Petition is barred by delay and laches. She seeks to rely upon order dated 22.03.2023 passed by a Coordinate Bench of this Court in this behalf. In addition, it is contended that the contents of paragraph 5 of the Petition are not correct. Thus, she submits that the present Petition is not maintainable.

8. Learned Counsel for the Petitioner, in Rejoinder, seeks to rely upon the affidavit dated 24.04.2023 [hereinafter referred to as “Additional Affidavit”] to submit that the knowledge of these proceedings was received for the first time by the Petitioner in February, 2022 when the Petition was filed. He submits that the Petition had inadvertently set out that the Petitioner received the Impugned Order in March, 2019. However, this has been clarified in the Additional Affidavit.

9. By an order dated 22.03.2023 passed by the Coordinate Bench of this Court, the Petitioner was required to file an additional Affidavit explaining the grounds of delay in filing the present Petition. The Petitioner has explained in the Additional Affidavit that the Petitioner was not informed about the Impugned Order being passed by the Authority. It is submitted that the knowledge of the Impugned Order came to the Petitioner when the Petitioner was served in Execution Proceedings in February, 2022. Reliance is placed upon the order dated 21.02.2022 passed by the learned Trial Court in execution proceedings i.e., CC No. 4762/2020 captioned as *Shri Mukendra Kumar Sharma v. M/s L.N. Petro Chem Pvt. Ltd.* wherein the Petitioner entered appearance. Prior thereto, during Covid-19 Pandemic, no notices were received by the Petitioner as well.



10. It is further stated by the Petitioner that the certified copy of the Impugned Order was not supplied to the Petitioner despite attempts to obtain the same. The relevant extract of the Additional Affidavit on behalf of the Petitioner is reproduced below:

“4. It is submitted that in this context in the petition itself, the Petitioner has categorically stated in para 13 that **“The Petitioner for the first time got to know about the impugned order when summons issued by the Court of Ld Metropolitan Magistrate, Patiala House Court, New Delhi under the execution proceedings bearing no. CC/4762/2020 of the impugned order dated 22.12.2017 was received in March 2019. It was shocking for the Petitioner to know about impugned order which was annexed with the application for execution dated 04.12.2019 filed by Ld. Respondent no. 1 itself before the Ld. Metropolitan Magistrate, Patiala House Court. It is submitted that, there no proof to show that the impugned order was communicated to the Petitioner before filing of the execution, which is also in violation of settled practice and procedure established Thus, the Petitioner never got an opportunity to challenge the impugned order earlier. It is submitted the right of challenge an order by which a party is aggrieved is a legal right which cannot be taken away. Thus, on this ground as well the impugned order is liable to be set-aside.”**”

5. Thus, it is not the case where the Petitioner was notified about the impugned order 22.12.2017 being passed. **It is submitted that the Ld. Authority does not conduct proceedings as per normal court practice. For every hearing a notice is being issued to the parties arid when a final order is passed a copy of the order is being sent to through post concerned parties. There is no concept of pronouncement of judgement/order before the Ld. Authority. Thus, the only way to know about the order being passed is through post. However, in the present case, the Petitioner never received any post carrying the impugned order dated 22.12.2017. It is submitted that, the Petitioner as matter of caution has also tried to get certified copies of the order and pleadings of Ld. Authority, however, the Ld. Authority has failed to provide the same.**

6. **It is submitted that, due to inadvertent mistake the Petitioner has stated that he received the copy of the impugned order in March 2019, however; it is submitted that it was received somewhere in January 2022 after the Counsel for Petitioner entered appearance before the Ld. Trial Court.”**

[Emphasis Supplied]

11. The Impugned Order reflects that the Claim Petition filed by the



Respondent No. 2 on 31.01.2017 for unpaid wages of the Petitioner for the period from August, 2013 to July, 2014. Thus, it is not disputed by either party that the Claim Petition was filed almost three years after the claim actually arose. This is also reflected in the Impugned Order, which is extracted below:

"2. The Claimant has stated in his claim filed on 31.01.2017 that he worked as a "Supervisor" with the company M/s L.N Petro Chem Pvt. Ltd., (hereinafter called the respondent) with full dedication on the last wage of Rs. 15,000/- per month as per affidavit. During the period of Aug 2013, 12.09.2013 to Feb 2014, Dec 2013, Jan 2014, April 2014, May 2014 and July 2014 for the period served by him in Gujarat and New Delhi. He has made complaint to this effect before the Labour Inspector but it was not resolved. During the service period he worked with full dedication and sincerity but he was not paid his salary by the respondent. Therefore, the claimant has filed the present claim."

[Emphasis Supplied]

12. It is apposite to set out Section 21(2) of the Act, which is extracted below:

"21. Claims relating to wages.—

(1)

(2) Application for any such claim may be made to the authority appointed under sub-section (1) by the employee himself or any Official of a registered trade union authorised in writing to act on his behalf or any legal practitioner or the Chief Inspector for a direction under sub-section (3): Provided that every such application should be presented within one year from the date the claim for such wages has become payable under this Act: Provided further that an application may be admitted after the said period of one year when the applicant satisfies the authority that he had sufficient cause for not making the application within such period. ..."

[Emphasis supplied]

12.1 A plain reading of the aforesaid provision, reflects that the limitation as prescribed to file the claim for unpaid wages is one year from the date the claim for such wages has become payable. The proviso to Section 21(2) of the Act states that an Application may be admitted after the period of one year if the Applicant satisfies the Authority that he had sufficient cause for



such delay.

13. As stated above the Claim Petition was filed by the Respondent No. 2 on 31.01.2017 for his unpaid wages. It is the case of the Petitioner that the Respondent No.2 was working as a supervisor on various projects of the Petitioner and that he left the Petitioner abruptly in May, 2014 when he was asked to explain that the salary/emoluments which were due to the Respondent No.2 were paid to him and has relied upon the ledger in this behalf which is reproduced in Paragraph 6.3 hereinabove.

14. This Court has examined the documents that are available with the record of the learned Labour Court. These documents reflect that Respondent No. 2 has filed different Applications before various authorities such as the Superintendent of Police, (U.P. Police), The Chief Minister, Government of Delhi, Deputy Labour Commissioner, Ghaziabad, Uttar Pradesh which were produced before the learned Labour Court. A perusal of these documents also reflects that each claim for wages as made by Respondent No. 2 was at variance with each other. In the complaint filed by the Respondent No. 2 before the Deputy Labour Commissioner, he has stated that he has worked from September, 2013 to July, 2014, however in the letter given to the Ghaziabad Police states that the claim was a perusal of the complaint before the Deputy Labour Commissioner for another period.

15. This aspect of the matter has not been dealt with by the learned Labour Court. The learned Labour Court has also not given any finding on the delay in filing and whether the reasons for the condonation of delay.

16. In view of the fact that the duration of the employment of the Petitioner is not clear and there is no evidence on record by the Petitioner as



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to the term of the employment of the Respondent No. 2. This Court deems it apposite to remand the matter to the learned Labour Court for fresh adjudication. The Impugned Order is accordingly set aside.

17. It is clarified that both parties are permitted to agitate all contentions before the learned Labour Court. All rights and contentions of the parties are left open in this behalf.

18. The Petition is disposed of in the foregoing terms. The pending Application stands closed.

19. The parties shall appear before the learned Labour Court on 23.05.2025.

20. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

APRIL 7, 2025/r/jn

Click here to check corrigendum, if any