



2025:DHC:11514



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

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Judgment Reserved on: 12.12.2025

Judgment pronounced on: 18.12.2025

+ W.P.(C) 14377/2021, CM APPL. 45332/2021, CM APPL. 50030/2023 & CM APPL. 68567/2025

M/S G4S SECURE SOLUTIONS INDIA PVT. LTD.Petitioner

Through: Mr. Gulshan Chawla and Ms.
Kanupriya Chawla, Advocates.

versus

SH. SHYAM KUMAR SHARMA

.....Respondent

Through: Mr. Divjyot Singh, Mr. Deepak
Sinha, Mr. Nipun Dwivedi,
Advocates.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. CM APPL. 50030/2023 under Section 17-B of the Industrial Disputes Act, 1947 (the ID Act), has been filed by the respondent/workman seeking payment of wages from the date of the award till the final disposal of the writ petition filed by the petitioner/management against the award dated 30.11.2019 by which the latter has been directed to reinstate the former with full wages and consequential benefits with effect from 14.06.2012.



2. In the application, it is alleged by the respondent/workman that he is not employed in any establishment after the passing of the impugned order till date. Due to his unemployment, it has become very difficult for him to support himself and his family, as he only has a small agricultural income, which is insufficient to maintain his family. His last drawn wages was ₹8,574/-. Pursuant to this Court's order dated 16.12.2021, where the petitioner stated that they were willing to take back the respondent, the latter contacted the authorised representative of the former. The respondent went to the office of the petitioner to join duty on 16.04.2022 and thereafter on 19.04.2022, but he was not allowed to join.

3. The application is opposed by the learned counsel for the petitioner/management, who contends that the respondent had never approached the petitioner for joining duty nor had he sent any communication. It is submitted that since the respondent has already been offered employment, during the pendency of the writ



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petition, the respondent is not entitled to any amount towards wages under section 17 B, and the present application is liable to be dismissed. In support of the argument, reliance is placed on **Jagbir Singh vs. Haryana State Agriculture Marketing Board 2009 (15) SCC 327**, wherein it was held that the relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination is in contravention of the prescribed procedure and compensation instead of reinstatement has been held to meet the ends of justice.

4. On 16.12.2021, when the writ petition was taken up for hearing, the petitioner stated that they were willing to take the respondent back if he is willing to join duty. The petitioner provided the contact number of one Mr. Sanjeev Kumar Taku, authorised representative of the petitioner for communication. The respondent alleges that he did report for duty but he was not permitted to join. In this regard, he has also filed representations dated 19.04.2022 and 16.04.2022 before the petitioner.



5. Thereafter, again, when the writ petition was taken up on 12.08.2025, the petitioner submitted on instructions that a deployment order *qua* the respondent would be issued when the latter reports for his duty. Again, this Court directed the respondent to appear at the office of the petitioner on 28.08.2025 at 11 AM and meet Mr Sanjeev Taku.

6. **CM APPL.68567/2025** has been filed by the respondent/workman stating that in compliance with the aforesaid order, he did contact Mr. Sanjeev Taku on 28.08.2025, who asked him to meet the Manager(HR) at Naraina Office of the petitioner and as per his instruction, the respondent met the Manager and submitted his joining report. However, instead of allowing the respondent to resume duty, he was asked to furnish a medical certificate and, thereafter, a police verification report. The respondent procured the medical cum fitness certificate and requested the petitioner's office to issue a letter or communication addressed to the police authorities for facilitating such verification,



but the same was not provided. Consequently, the respondent was unable to produce a police verification report. Despite full compliance on the part of the respondent, he has till date not been allowed to join duty.

7. The petitioner/management, in reply to **CM APPL.68567/2025**, had contended that while the respondent/workman was cross examined, he had categorically admitted that he was working as Supervisor; that he received a cheque amounting to ₹49,725/- from the petitioner towards full and final settlement of his dues with the management; that he voluntarily stated that he did not encash the said cheque and he also admitted that he had not applied for any job anywhere thereafter.

7.1. It was also submitted that despite clear and specific directions, the respondent/workman failed to comply with direction to report for duty, and he never contacted or met Mr. Sanjeev Kumar Taku on 28.08.2025. It was also further submitted



that the petitioner is a duly registered Private Security Agency under the provisions of the Private Security Agencies (Regulation) Act, 2005 (the PSARA). The offer to join duty was made way back on 04.12.2021, at the time of filing of the writ petition itself, subject to compliance with the statutory requirements under the PSARA. Furthermore, in compliance with the statutory mandate, the petitioner issued a letter dated 02.12.2025 to the respondent calling upon him to furnish (i) police verification verifying his antecedents and character, and (ii) the requisite security training certificate, as required under Section 10(c) and 10(d) of the PSARA. Upon compliance with the said requirements, the petitioner is ready and willing to issue the deployment order to the respondent.

8. During the course of arguments, it was submitted that though the petitioner made the offer in the year 2021; the application under Section 17-B of the ID Act was only filed in the year 2023. Hence, the claim is delayed. Lastly, the learned counsel



for the petitioner also submitted that the respondent/workman has agricultural income and hence he is gainfully employed, disentitling him to the reliefs prayed for. In support of the argument, reference is made to the dictum in **North-East Karnataka Road Transport Corporation v. M. Nagangouda, (2007) 10 SCC 765.**

9. In rebuttal, the learned counsel for the respondent/workman submitted that the respondent was served with notice in August 2022, at which time he came to know about the offer of the petitioner. Thereafter, he filed the application within 8 months of being served, that is, in 2023. He also submitted that the offer does not disentitle the respondent from filing an application under 17-B of the ID Act. Reference was made to the judgments of **Hindustan Carbide Pvt. Ltd. v. GNCT of Delhi, 2001 SCC OnLine Del 1301**, to state that Section 17-B of the ID Act is mandatory and subsistence-oriented, and **United Poly Engineering Pvt. Ltd. v. Presiding Officer, Labour Court,**



2023 SCC OnLine Del 369, wherein it has been held that agricultural income cannot be taken as gainful employment.

10. Heard both sides.

11. The petitioner has failed to point out any statutory period for filing the application under Section 17-B of the ID Act, and therefore, the argument on maintainability and delay is not sustainable.

12. Section 17-B of the ID Act provides that where an award of reinstatement is challenged before a higher court, the employer shall be liable to pay the workman full wages last drawn, provided the workman files an affidavit stating that he is not employed and not receiving adequate remuneration unless the employer proves otherwise. The provision is mandatory in nature and intended to mitigate the hardship caused to a workman due to the delay in the implementation of the award of reinstatement. (**Dena Bank v. Ghanshyam**, (2001) 5 SCC 169). In **Hindustan Carbide**(*supra*), it has been held that once the workman files an affidavit of



unemployment, the Court must direct payment of last-drawn wages during the pendency of proceedings, irrespective of stay of the award, subject only to the employer proving gainful employment elsewhere.

13. In the case on hand, the award of reinstatement has been passed in favour of the respondent, and the said award is under challenge in the present writ petition. The workman has filed an application stating that he is not employed in any establishment and that he only has a small agricultural income. The petitioner has contended that the respondent is earning agricultural income and is therefore not eligible to get wages, and is gainfully employed. The Apex Court in **North-East** (*supra*) has held that the agricultural income amounts to gainful employment for the purpose of final determination of back wages. However, the said judgment does not lay down that every agricultural income automatically disentitles a workman from relief under Section 17-B. Section 17-B contemplates denial of wages only where the employer proves that



the workman is employed and receiving adequate remuneration. The burden to establish the same lies squarely on the employer/petitioner.

14. The petitioner did not place on record any material to show the extent of agricultural income earned by the respondent every month or that such income is adequate to maintain the respondent and his family. Mere existence of small or subsistence-level agricultural income, without proof of adequacy, does not defeat a claim under Section 17-B as held in **United Poly Engineering Pvt. Ltd.** (*supra*).

15. The petitioner has also contended that an offer of a job was made to the respondent. The respondent/workman has placed the medical report and the messages sent by him to one Mr Sisodiya, stating that police verification cannot be carried out without the help of the petitioner. At the stage of considering an application under Section 17-B, this Court cannot adjudicate disputed questions of fact regarding compliance or non-



compliance with the joining directions. However, unless reinstatement is actually effected, Section 17-B continues to operate. Therefore, a conditional or incomplete offer of reinstatement, particularly where statutory compliances are not done by the petitioner, cannot be treated as reinstatement to deny Section 17-B wages. The respondent has satisfied all statutory requirements under 17-B of ID Act and is therefore entitled to wages during the disposal of the writ petition.

16. Under Section 17-B, the respondent is entitled to full wages last drawn. The last drawn wages of the respondent is stated to be ₹8,574/- per month. The petitioner is directed to pay the respondent full back wages, at the rate of ₹8,574/- per month, from the date of the award dated 30.11.2019 till date.

17. The applications are disposed of in the above terms.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

DECEMBER 18, 2025/rs/er