



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

% Date of Decision: 02.07.2025

+ **W.P.(C) 8803/2025 and CM APPL. 37521/2025**

KUNAL JAIN

.....Petitioner

Through: Mr. Gagan Narang, Ms. Urvi Syal and
Mr. Rudraksh Gupta, Advocates.

versus

DY. LABOUR COMMISSIONER & ANR

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present writ petition filed under Article 226 of the Constitution of India, the petitioner seeks setting aside of the order dated 10.02.2025 passed by the Adjudicating Authority under the Delhi Shops and Establishments Act, 1954/Deputy Labour Commissioner (South East), Labour Department, Govt. of NCT of Delhi (hereinafter, '*impugned order*') whereby the petitioner was directed to pay Rs. 1,26,153/- towards due earned wages and Rs. 31,583/- as compensation to respondent No. 2.

2. The facts of the present case, in a nutshell, are that in the claim petition, the respondent No.2 claimed himself to be employed by the petitioner as a Senior Foreman at a monthly salary of Rs. 40,000/- commencing from 01.08.2019. It was further claimed that his salary was wrongfully withheld from 01.08.2019 to 04.11.2019. In the claim petition, the respondent no.2 claimed Rs. 1,26,153/- towards arrears of salary alongwith prayer for compensation and interest. The respondent also issued a demand notice dated 08.10.2020 to the petitioner.



3. The claim petition having been allowed by the impugned order, the petitioner challenges the same by contending that respondent No.2 failed to prove any employer-employee relationship between himself and the petitioner. It is the petitioner's case that respondent No. 2 was appointed as an independent contractor for carrying out plumbing work and therefore, could not have invoked the Delhi Shops and Establishments Act, 1954. Furthermore, it is submitted that respondent No.2's complaint was lacking cogent documentary evidence as it was not accompanied by any appointment letter, salary slips, bank statements or attendance records. Moreover, respondent No.2 even failed to discharge its contractual obligations and was paid to the extent of his completed work and that no wages remained outstanding. Lastly, learned counsel submits that the impugned order was passed *ex-parte* without affording opportunity to the petitioner to place the relevant documents on record and is, thus, liable to be set aside.

4. The only question arising before this Court is whether there existed employee-employer relationship between the petitioner and respondent No.2. A perusal of the record would show that the workman had filed his evidence by way of an affidavit before the Adjudicating Authority and had also exhibited his complaint dated 24.08.2020, Statement of Claim as well as Demand Notice dated 08.10.2020, wherein he averred the existence of the employer-workman relationship between the parties. On the other hand, the petitioner initially appeared before the Adjudicating Authority and admittedly, filed a written statement dated 03.02.2021 whereby the employer-employee relationship was contested. However, the workman duly refuted the same by filing a rejoinder and reiterated his claim. The



petitioner, though admitted to a relationship between itself and respondent No.2, termed it as contractual. However, it failed to lead any evidence in this regard. Notably, the petitioner failed to appear thereafter and was proceeded *ex parte* vide order passed on 20.12.2023.

5. It is a settled position in law that the employer-employee relationship between the parties is a pure question of fact and ordinarily, the High Court while exercising its power of judicial review shall not interfere therewith unless the finding is manifestly or obviously erroneous or perverse [Ref: Workmen of Nilgiri Coop. Mkt. Society Ltd. v. State of T.N. reported as **(2004) 3 SCC 514**].

6. Notably, the petitioner had ample opportunity before the Adjudicating Authority to bring requisite documents on record to prove that the relationship was only contractual, but he failed to do so. The petitioner's written statement was admittedly on record and duly considered while passing the impugned order. The evidence filed by the workman remained uncontroverted and no cross-examination was carried out to that extent.

7. In view of the same and considering that the petitioner has neither been able to place any document on record to prove that respondent No. 2 was engaged on a contractual basis nor has been able to controvert his claim that he was employed with the petitioner, I find no grounds to interfere with the impugned order. Accordingly, the present petition is dismissed alongwith the pending application.

**MANOJ KUMAR OHRI
(JUDGE)**

JULY 2, 2025/rd