



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

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*Reserved on: 03rd March, 2025
Pronounced on: 27th May, 2025*

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CRL.M.C.2662/2021

PRABHAKAR KABRA

R/o EC-1/B-301, Essel In Tower,
Main MG Road, Sector-28,
Gurgaon, Haryana.

.....Petitioner

Through: Mr. Manohar Lal and Mr. Chaitanya
Rohilla, Advocates.

Versus

1. **GOVT. OF NCT OF DELHI (STATE)**
Through SHO, P.S. Kalkaji, New Delhi.

2. **M/S SALASAR SERVICES (INSURANCE BROKER) PVT.
LTD.**
At B-91, Second Floor,
Kalkaji, New Delhi-110019.

Also at : 23-A, Netaji Subhash Road,
Futuna Tower,
6th Floor, Room No.14, Kolkata,

And also at :
B-79, 1st Floor, Sector-6,
Noida-201301.

....Respondents

Through: Mr. Shoaib Haider, APP for the State.
None for Respondent No.2.



CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. A Petition under Section 482 Cr.P.C. has been filed to challenge the Order dated 16.10.2021 of learned ASJ whereby the Order of learned M.M dated 13.03.2019 dismissing the Application under Section 156(3) Cr.P.C. of the Petitioner, has been upheld.
2. **Briefly stated**, the Petitioner a Senior Citizen and it is stated that he was working as Assistant Vice president in M/s Salasar Services (Insurance) Borkers Pvt. Ltd./Respondent No.2 since 10.01.2014. He worked in the Organization with utmost dedication integrity and sincerity and carved a niche for himself in the Organization. He never took leave during his entire tenure till the year 2017. However, after taking due Leave after sanction, he went to visit his family in London from 07.07.2017 to 05.08.2017.
3. Suddenly, in the mid of his Leave period, he received an email dated 19.07.2017 from the office of the Company stating that his services were terminated with immediate effect and that the dues would be settled in terms of the Appointment Letter. He was embarrassed and humiliated by the termination of his job while he was away from his country to be with his family in London. The Letter did not give any reason for sudden termination of his services except that it was stated that due to steep fall in the business



of the Company during the month of June, 2017, his services were terminated.

4. Though his services were terminated from 19.07.2017, but he was given a credit of only seven day's salary, even though he was entitled to a salary of nineteen days even in terms of the Termination letter.

5. The Petitioner forwarded an email dated 12.08.2017 and protested for not crediting his proper salary for the month of July, 2017. He further made a demand of full one month salary in lieu of the Notice period and also demanded the status of his Provident Fund Account. The Respondent Company for their own reasons, failed to respond.

6. The Petitioner asserted that the law relating to Provident Fund is strict and the provisions of Provident Fund Act are stringent. The Company has nearly 200 employees, but no provision for Provident Fund Act has been followed by it. They have no fear of law and have adopted *Hire and Fire* policy for their employees. It is claimed that the fraud of Provident Fund of employees committed by the Company would go in hundred of crores.

7. It is submitted that cognizable offences were disclosed despite which no action was taken on his complaints by the SHO/DCP. It is further submitted that the learned M.M as well as learned ASJ in their respective Orders, have failed to consider the gravity of the allegations and have wrongly dismissed the Applications.

8. Hence, the present Petition has been filed for setting aside the Order of the learned ASJ and to direct registration of FIR.



9. The **Respondent No.2 Company in its Counter-Affidavit** submitted that the Petitioner was not a *workman* as defined under '*Industrial Disputes Act 1947*'. He was appointed on a salary beyond the ceiling limit of coverage of employees under *EPF* and *MP Act, 1952*. Therefore, no Provident Fund contribution was deducted from his salary and correspondingly the employer was not liable to contribute to the fund in respect of the Petitioner. It is submitted that the Petitioner was getting a salary of more than Rs.25,000/- per month and is not entitled to PF.

10. It is further submitted by the Petitioner that as per Employee Provident Fund Scheme, Organizations with 20 or more employees are required by law to register voluntarily. The Respondent No.2 is already registered under the Scheme vide Code No.WBCAL61532 allotted to it by EPF Authority as it has more than 20 employees.

11. It is further explained that it was not mandatory for the Petitioner to become a Member of EPF, but had a choice to do so. It is further asserted that there is an undue delay on the part of the Petitioner. The Respondent No.2 has already replied to the Legal Notice of the Petitioner. It is further stated that the Charges against the Petitioner were grave as there were allegations of lack of integrity for which reason he cannot be reinstated. The allegations made by the Petitioner against the Company were denied.

12. The Petitioner in his **Rejoinder** reaffirmed the assertions made in the Petition.

13. **Submissions heard and Record perused.**



14. From the averments made by the Petitioner in his Complaint, it is evident that there was a relationship of employer-employee between the Petitioner and Respondent No.2 which unfortunately was brought to a sudden termination by the Company through its Termination Letter dated 19.07.2017. Disgruntled and unhappy with his termination, the Petitioner sought the Settlement of his dues including EPF and other entitlements.

15. All the averments even if accepted, only reflect a civil dispute in regard to the dues payable to the Petitioner on account of termination of his service. Much has been agitated about his EPF dues not been paid, but it has been explained by Respondent No.2 that since he was getting a salary of more than Rs.25,000/- per month, he did not qualify under the EPF Scheme as an employee for whom the Company was mandatorily required to open an EPF Account and make the requisite contributions. Though, the Petitioner could have opted to become a member, but there is not a single averment to show that he had become a member under the EPF scheme or ever contributed anything in this Account.

16. What further emerges is that the Petitioner made a desperate attempt to somehow bring in the element of cognizable offence by claiming that no EPF Accounts have been opened for more than 200 employees who have been engaged by the Company. Again, it is nothing but an averment made without disclosing the name or specification of either the accounts or the employees.



17. It has been rightly concluded that no Police investigations are merited in this case and the facts do not justify the direction for registration of the FIR.

18. It is evident that in order to settle his accounts with the Company, the Petitioner has found an easy solution by making an attempt to use the State Criminal Machinery, which is neither appreciable nor warranted in the given circumstances.

19. Looking at the nature of the allegations, it is a fit case where cost must be imposed while dismissing the Petition, but considering that the Petitioner is a disgruntled employee whose services have been terminated, this Court refrains itself from imposing any cost.

20. There is no merit in the present Petition, which is hereby dismissed.

**(NEENA BANSAL KRISHNA)
JUDGE**

MAY 27, 2025

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