By Speed Post

GOVERNMENT OF N.C.T. OF DELHI
BEFORE THE AUTHORITY UNDER THE DELHI SHOPS & ESTABLISHMENT ACT, 1954:
LABOUR WELFARE CENTRE, VISHWAKARMA NAGAR,
JHILMIL COLONY, DELHI-110095

No.SE/ED/52/2019/2593-2595 Dated: 05/07/22

In the matter of:-

Sh. Ram Pratap Singh S/o Sh. Shwayamber Singh
H.No. O-25, T Camp,
Khichiripur, Delh-110091 .... Workman/Claimant

V/s

M/s Waira Printers & Traders
Through its Sh. Girish Chand Sharma
Paper Market, Pocket C-174,
Gazipur, Delhi-110096

Also at:
M/s Waira Printers & Traders
Through its Sh. Girish Chand Sharma
B-165, Pandav Nagar, Delhi-110092 ....Respondent

Order

1. Vide this order, I shall dispose off claim application dated 17.06.2019 filed by the claimant under Delhi Shops and Establishment Act, 1954 (hereinafter referred as an "Act") stating that the claimant was working as helper with respondent since May, 2008 and his last drawn wages were Rs.10,000/- per month. It has further been stated that his services were terminated by the respondent w.e.f 11.04.2019 without any notice and the respondent also did not pay earned wages for the period from 01.02.2019 to

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10.04.2019 which comes to Rs.23,846/-. The Claimant has further stated that he sent a demand notice dated 06.05.2019 through Union through speed-post but the respondent neither paid the demanded earned wages nor replied the same and has requested to direct the respondent to make the payment of his earned wages amounting to Rs.23,846/- with Rs.3,500/- as legal expenses and interest @ 12.5% on the due amount of earned wages.

2. That notices were issued to respondent at both addresses. The respondent appeared and filed reply stating that the claimant is an independent contractor and provides his services as a daily wage labourer to all the shops & establishment and has no fixed job or vocation in any shop or house in locality and market. The respondent further stated that the claimant gives his services to all the shop owners and household owners for lifting articles/loading/unloading goods from vehicles and other miscellaneous works and they have never availed services of the claimant in the form of employee and employer relation and has denied all the contents of the claim and requested to dismiss the claim of the claimant.
3. That rejoinder was filed by claimant side denying the contents of reply and reiterating the contents of claim.
4. That on pleadings of both the parties following issues were framed as agreed by both the parties:-

   (i) Whether the claimant, Sh. Ram Pratap Singh S/o Sh. Shwayamber Singh is entitled for earned wages from the period from 01.02.2019 to 10.04.2019?

   (ii) And if so, to what Amount?

   (iii) Any other relief?

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(iv) What directions are necessary in this respect?

5. That Claimant filed evidence by way of affidavit dated 22.12.2020 duly attested by Oath Commissioner wherein he has reiterated the same contents as mentioned in his application exbt. as WW1/A along with documents WW1/1 to WW1/6 i.e Copy of Aadhar Card, Copy of ESIC Card, Copy of SBI statement (colly 9 pages), Copy of demand notice, Copy of postal receipt and copy of complaint letter.

6. That the claimant was crossed by A.R of Respondent wherein *"The claimant has stated that he has shown seven transactions of different amounts varying from Rs.4,000/- to Rs.10,545/-. The claimant has also stated that he has received last payment through NEFT for Rs.7,099/- on 06.04.2019 towards full and final payment"..... "I received ESI card through post. It is wrong to suggest that Respondent had not made any ESI card of other employees. I do not know the other ESI cards, if made by the Respondent, any of his employees. I do not know the other employees employed by the Respondent in his Shop/Establishment. It is wrong to suggest that I persuaded the Respondent in the garb of medical benefits for my family to get the ESI card. It is wrong to suggest that other entries pertain to Exb.WW-1/3 from other persons to whom I work for and they paid me through cheque and bank transfers. I am unable to produce any person/employee who has the ESI card referred by Respondent. It is correct that no one referred by Respondent to get ESI Card."*

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7. That the respondent filed evidence by way of affidavit dated 01.04.2021 duly attested by Oath Commissioner exbt. as RW1/A and the respondent was crossed by A.R of claimant and during the cross nothing adverse has come on record and respondent has stated that it is incorrect to suggest that the firm was covered under ESIC. Both the parties argued the matter and submitted written arguments.

8. That on perusal of the records placed in the file, it is noted from the cross of claimant that he has stated that he received all the payments through Cheque and Bank transfers and no payment was received in cash whereas on perusal of the transactions in the account statement of claimant, it is noted that the respondent has transferred the varying amount from Rs.4,000/- to Rs.10,545/- in seven different transactions through NEFT. The claimant has also stated that he had been working with the respondent from May, 2008 and has worked upto 10th April, 2019 and was being paid his salary through Cheque and Bank transfers but only seven transactions in such a long period shows that the claimant has not worked as a regular employee with the respondent. The claimant has further stated that he has received Rs.7,099/- as full and final settlement. Moreover, the claimant's admission in the cross that he does not know other employees employed by the respondent infers that the claimant is not aware about the co-workers working with the respondent, though the claimant has worked for a long period and from this it is inferred that the claimant was not the regular employee with the respondent. The claimant has filed photocopy of ESI card but did not file copy of E-pehchan card which

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contains all the details of employee and employer and has thus concealed the details of employer with whom he was working. Since, the claimant has not filed any proof of regular employment with the respondent and no proof of working for the claim period has been filed by the claimant, therefore, the claim filed by the claimant is dismissed.

Given under my seal and signature on 5th Day of July, 2022.

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(KUNWAR MANOJ SINGH)
AUTHORITY
Under The Delhi Shops & Establishment Act, 1954