

LIR No. 291/17

Sanjay Kumar Singh vs. M/s Unitect Amusement Parks Ltd.

26.09.2020

Present: None for the workman.

The matter is fixed for today for consideration on the statement of claim.

But, today, no one has appeared on behalf of the workman through video conference.

Accordingly, the matter stands adjourned for the same purpose on 23.10.2020.

Ahlmad is directed to send the copy of this order to the concerned official of District Court, RADC for uploading on the official website of the District Court.



(PAWAN KUMAR MATTO)  
Presiding Officer Labour Court-IX  
Rouse Avenue Courts/New Delhi  
26.09.2020

LIR No. 292/17

Arun Kumar vs. M/s Unitect Amusement Parks Ltd.

26.09.2020

Present: None for the workman.

The matter is fixed for today for consideration on the statement of claim.

But, today, no one has appeared on behalf of the workman through video conference.

Accordingly, the matter stands adjourned for the same purpose on 23.10.2020.

Ahlmad is directed to send the copy of this order to the concerned official of District Court, RADC for uploading on the official website of the District Court.



(PAWAN KUMAR MATTO)  
Presiding Officer Labour Court-IX  
Rouse Avenue Courts/New Delhi  
26.09.2020

LCA No. 45/19

Abhay Kumar Jha vs. M/s Krishna Petrochem

26.09.2020

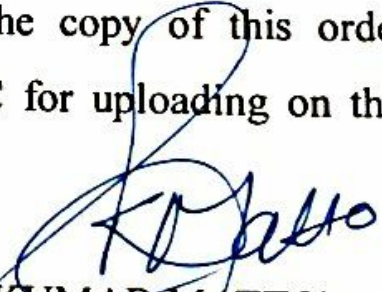
Present: None for the parties.

The matter is fixed for today for talk of settlement, failing which for framing of issues.

But, today, no one has appeared on behalf of any of the parties through video conference.

Accordingly, the matter stands adjourned for the same purpose on 02.11.2020.

Ahlmad is directed to send the copy of this order to the concerned official of District Court, RADC for uploading on the official website of the District Court.

  
(PAWAN KUMAR MATTO)  
Presiding Officer Labour Court-IX  
Rouse Avenue Courts/New Delhi  
26.09.2020

LID No. 394/19

Sheelu Chand Raghav vs. M/s G-4S Secure Solution India Pvt. Ltd.

26.09.2020

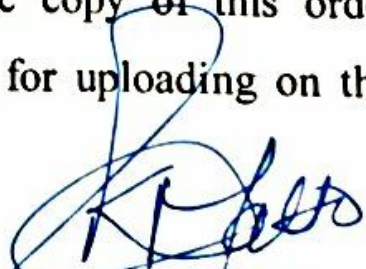
Present: None for the workman.  
Sh. Gulshan Chawla, AR for the management through video conference.

The matter is fixed for today for further cross examination of the workman.

But, today, no one has appeared on behalf of the workman through video conference.

In view of huge pendency of cases in this court, the matter stands adjourned for further cross-examination of the workman and also for the remaining evidence of the workman on 07.09.2021. Workman is directed to file affidavits of all the witnesses in the court one week prior to the next date of hearing and supply advance copies thereof to the management or it's AR in similar manner.

Ahlmad is directed to send the copy of this order to the concerned official of District Court, RADC for uploading on the official website of the District Court.

  
(PAWAN KUMAR MATTO)  
Presiding Officer Labour Court-IX  
Rouse Avenue Courts/New Delhi  
26.09.2020

LIR No. 294/18

Sabita Devi vs. M/s Bagoriya Engineering Works

26.09.2020

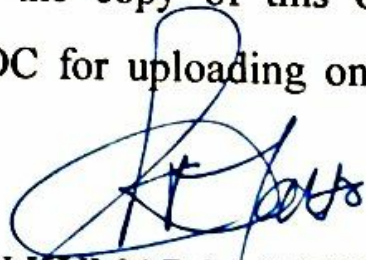
Present: None for the workwoman.  
Management is already exparte.

The matter is fixed for today for exparte evidence of the workwoman.

But, today, no one has appeared on behalf of the workwoman through video conference.

In view of huge pendency of cases in this court, the matter stands adjourned for exparte evidence of the workwoman on 11.05.2021.

Ahlmad is directed to send the copy of this order to the concerned official of District Court, RADC for uploading on the official website of the District Court.



(PAWAN KUMAR MATTO)  
Presiding Officer Labour Court-IX  
Rouse Avenue Courts/New Delhi  
26.09.2020

LIR No. 4218/16

Som Dutt vs. M/s Group-4 Security Services India Pvt. Ltd.

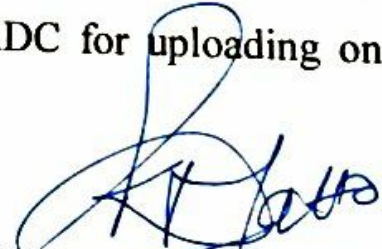
26.09.2020

**Present:** Sh. Kailash Kumar Jonwal, AR for the workman through video conference.  
Sh. Gulshan Chawla, AR for the management through video conference.

The matter is fixed for today for evidence of the management and also for the production of medical document by the management.

Since, this case is more than 7 years old, so, the matter stands adjourned for entire evidence of the management on 26.10.2020. Management is directed to file affidavits of all the witnesses in the court one week prior to the next date of hearing and supply advance copies thereof to the workman or his AR in similar manner.

Ahlmad is directed to send the copy of this order to the concerned official of District Court, RADC for uploading on the official website of the District Court.

  
(PAWAN KUMAR MATTO)  
Presiding Officer Labour Court-IX  
Rouse Avenue Courts/New Delhi  
26.09.2020

LIR No. 2002/16

Sh. Karamveer vs. M/s Group-4 Security Services India Pvt. Ltd.

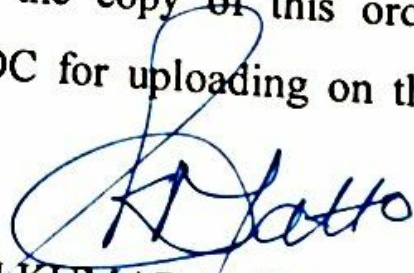
26.09.2020

Present: Sh. Kailash Kumar Jonwal, AR for the workman through video conference.  
Sh. Gulshan Chawla, AR for the management through video conference.

The matter is fixed for today for evidence of the management and also for the production of medical document by the management.

Since, this case is more than 7 years old, so, the matter stands adjourned for entire evidence of the management on 26.10.2020. Management is directed to file affidavits of all the witnesses in the court one week prior to the next date of hearing and supply advance copies thereof to the workman or his AR in similar manner.

Ahlmad is directed to send the copy of this order to the concerned official of District Court, RADC for uploading on the official website of the District Court.



(PAWAN KUMAR MATTO)  
Presiding Officer Labour Court-IX  
Rouse Avenue Courts/New Delhi  
26.09.2020

LIR No. 2003/16

Sh. Sunil Kumar vs. M/s Group-4 Security Services India Pvt. Ltd.

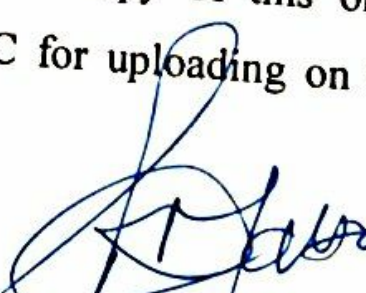
26.09.2020

Present: Sh. Kailash Kumar Jonwal, AR for the workman through video conference.  
Sh. Gulshan Chawla, AR for the management through video conference.

The matter is fixed for today for evidence of the management and also for the production of medical document by the management.

Since, this case is more than 7 years old, so, the matter stands adjourned for entire evidence of the management on 26.10.2020. Management is directed to file affidavits of all the witnesses in the court one week prior to the next date of hearing and supply advance copies thereof to the workman or his AR in similar manner.

Ahlmad is directed to send the copy of this order to the concerned official of District Court, RADC for uploading on the official website of the District Court.

  
(PAWAN KUMAR MATTO)  
Presiding Officer Labour Court-IX  
Rouse Avenue Courts/New Delhi  
26.09.2020



LD No. 68/17

Bisheshwar Dayal vs. M/s Bansal Industries

26.09.2020

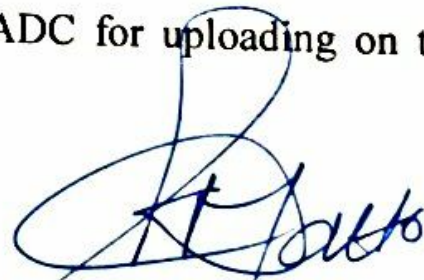
Present: Sh. Santosh Singh, AR for the workman through video conference.  
None for the management.  
(Management is already exparte.)

The matter is fixed for today for hearing arguments on the two applications filed by the management vide which the management has sought to recall the order dated 12.02.2020, vide which, it was proceeded exparte and another application for waiving of cost.

But, today, no one has appeared on behalf of the management through video conference.

Accordingly, the matter stands adjourned for the same purpose on 06.11.2020.

Ahlmad is directed to send the copy of this order to the concerned official of District Court, RADC for uploading on the official website of the District Court.



(PAWAN KUMAR MATTO)  
Presiding Officer Labour Court-IX  
Rouse Avenue Courts/New Delhi  
26.09.2020

LIR No. 867/18

Randhir Singh Chhikara vs. M/s The HT Media Ltd.

26.09.2020

Present: Ms. Chetna Chhikara, AR for the LRs of the deceased workman through video conference.  
Ms. Raavi Birbal, AR for the management through video conference.

The matter is fixed for today for hearing further arguments on the application filed by the management for framing of additional issue.

Further arguments of both the Ld. ARs for the parties heard.

Matter stands adjourned for order on application filed by the management on 28.09.2020.

Ahlmad is directed to send the copy of this order to the concerned official of District Court, RADC for uploading on the official website of the District Court.

(PAWAN KUMAR MATTO)  
Presiding Officer Labour Court-IX  
Rouse Avenue Courts/New Delhi  
26.09.2020

LID No. 111/17

Rahul Goasai vs. Rajesh Aggarwal & Karan Aggarwal,  
Owner/Prop./Partner of City Park Green Resort

26.09.2020

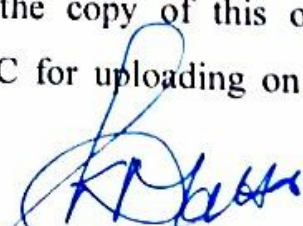
Present: Sh. Santosh Singh, AR for the workman through video  
conference.  
None for the management.

The matter is fixed for today for order.

Vide my separate detailed award of even date, the statement of  
claim filed by the claimant has been dismissed, being devoid of merit.

The attested copy of the award be sent to the Office of the  
Deputy Labour Commissioner, Government of NCT of Delhi of Distt./Area  
concerned for publication as per rules and judicial file be consigned to  
Record Room, as per rules after compliance of necessary legal formalities.

Ahlmad is directed to send the copy of this order to the  
concerned official of District Court, RADC for uploading on the official  
website of the District Court.

  
(PAWAN KUMAR MATTO)  
Presiding Officer Labour Court-IX  
Rouse Avenue Courts/New Delhi  
26.09.2020

**IN THE COURT OF Sh. PAWAN KUMARA MATTO, PRESIDING  
OFFICER, LABOUR COURT NO. IX, ROUSE AVENUE COURT:  
NEW DELHI**

<b>LID no.</b>	<b>111/17</b>
<b>Date of institution</b>	<b>19/07/17</b>
<b>Date of Award</b>	<b>26.09.2020</b>

**Sh. Rahul Goasai**

S/o Sh. Kali Charan Gosain  
R/o H. No. I-698, Jahangirpuri  
Delhi-110033  
C/o Sh. Santosh Singh, Advocate  
Ch. No. L-8, K. L.Sharma Block  
Gate No.2, Tis Hazari Courts  
Delhi-1100054.

**.....Claimant(workman)**

**Vs.**

**Sh. Rajesh Aggarwal and Karan Aggarwal**

Owner/Prop/Partner  
M/s City Park Green Resort  
G.T. Karnal Road, Near Splash Water  
Park, Alipur, Delhi-110036

**....Management**

**AWARD**


1. This award of mine will dispose off the statement of claim filed by the claimant namely Sh. Rahul Goasai against the management namely Sh. Rajesh Aggarwal and Karan Aggarwal Owner/Prop/Partner of City Park Green Resort.

LID no.111/17



1/39

2. The claimant has filed statement of claim stating therein that he was continuously serving in the management as Security Guard since 10.04.2015 and his last drawn wages were Rs. 18,500/- per month.
3. He has also averred that he had uninterrupted, unblemished and meritorious record of service. He had worked sincerely and honestly. He never gave any chance of complaint to the management. He was never chargesheeted by the management.
4. The claimant has alleged that the management was not maintaining the records. The claimant has also alleged that the management did not provide him various legal facilities viz. Appointment letter, attendance card, attendance register, ESIC, PF and bonus etc and he has demanded the legal facilities from the management many times, but, the management did not pay any heed to the same. The claimant has also alleged that the management was taking over time work from him, but, it was not paying over time charges and he had demanded for the same, but, the management did not pay heed to the same.

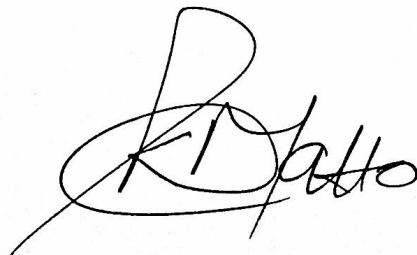


5. The claimant has also alleged that he has demanded various legal facilities many times and the management being annoyed had illegally, arbitrarily and unjustifiably terminated his services on dated 13.05.2016, that too, without any notice or information, without payment of retrenchment compensation and without payment of notice pay. He has also alleged that the management has withheld his earned wages for the period w.e.f. 01.05.2016 to 13.05.2016.
6. The claimant has also averred that he had lodged the complaint dated 18.05.2016 against the management before the Assistant Labour Commissioner, Nimari colony, Delhi through union and Labour Inspector had visited the establishment of the management and he had tried to impress the management to take back the claimant on duty and to pay his back wages, but, the management had refused for the same.
7. The claimant has also averred that he has sent a Demand letter dated 28.05.2016 to the management by speed post through his Advocate, which was served to the management, but, despite of



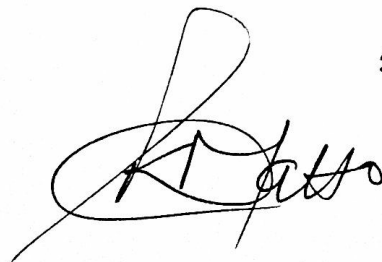
service of the demand notice, the management did not pay any heed to the the same.

8. He has also averred that he had filed his statement of claim dated 27.07.2016 before the conciliation Officer, Labour Office, Nimari Colony, Ashok Vihar, New Delhi through union. The management was issued notice for conciliation, but, due to adamant attitude of the management, the conciliation proceedings got failed and the conciliation officer had given failure report dated 08.02.2017.
9. The claimant has alleged that the said acts of the management are illegal, unjust, improper, unconstitutional and against the provisions of Industrial Disputes Act, 1947.
10. The claimant has also stated that despite of best efforts made by the claimant, the claimant could not get any job and he is unemployed, since the day, his services were illegally terminated by the management. He has prayed for passing an award for reinstating him in the management with continuity of service and with full back



wages.

11. The notice of statement of claim was issued to the management and on completion of service, the management had appeared through it's Authorized Representative and filed the written statement. It has contested the statement of claim stating therein that that the claimant has filed the present case to harass the management. The claimant did not complete 240 days of his service. The management has also stated that the claimant was engaged by the management as Bouncer in the month of May, 2016 purely on the casual basis, as and when, they needed Bouncer.
  
12. The management has also stated that it had called the claimant for 4-5 days in the month of May 2016, but, due to unsatisfactory work, the management discontinued/removed him from the service on dated 13.05.2016.
  
13. The management has also alleged that the claimant has not approached to the court with clean hands. He has concealed and suppressed the material facts from the court and also stated that the

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present claim is nothing, but, it is misuse of judicial process. It has also stated that the claimant is gainfully employed.

14. Replying to the statement of claim on merit, the management has denied that the claimant was working in the management since 10.04.2015 and stated that in the month of May, 2016, the management had called to the claimant for 4-5 days, but, due to unsatisfactory work, the management discontinued /removed him from his services w.e.f. 13.05.2016. The management has denied that the claimant had unblemished or meritorious record or that he had worked diligently or honestly. The management has denied that it did not maintain proper record of it's employee. The management has also denied that it had taken over time work from the claimant or that the claimant had demanded for the legal facilities or that being annoyed, the management had illegally terminated his services on dated 13.05.2016. The management has also denied that the claimant had filed any complaint before the Assistant Labour Commissioner. The management has also denied to have received demand notice dated 28.05.2016. The management has also denied that the claimant had

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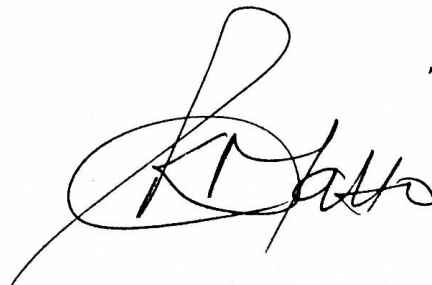
filed any statement of claim dated 27.07.2016 before the Conciliation Officer or that any act of the management was illegal, arbitrary, improper or unconstitutional and after denying the other averments made in the statement of claim, the management has prayed for dismissal of the statement of claim.

15. The claimant has filed rejoinder to the written statement of management and denied the averments made in the written statement and reiterated the contents of his statement of claim.

16. The Ld. Predecessor of this court vide her order dated 24.04.2018 was pleased to frame the following issues:

1. Whether the claimant is covered with the definition of workman U/S 2(s) of the Industrial Disputes Act 1947?  
OPW
2. Whether the claimant himself resigned from the services of the management voluntarily? OPM (Deleted on 26.09.2020)
3. Whether the services of the workman were terminated illegally or unjustifiably by the management?  
OPW
4. Relief

17. In order to prove his case, the claimant has examined himself as WW-1 vide his affidavit Ex. WW-1/A and has reiterated the contents of his statement of claim therein. He has also relied upon the documents

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Ex.WW-1/1 to Ex.WW-1/8. He was cross examined by the Id. Authorized Representative of the management. The claimant did not examine any other witness. Thereafter, matter was fixed for evidence of the management.

18. The management has examined Sh.Akhil Kaushal as MW1 vide his affidavit Ex.MW1/A. He was cross examined by Id. Authorized Representative of the claimant. The management did not examine any other witness and the matter was fixed for final arguments.

19. At the time of final arguments, the Id. Authorized Representative for the claimant started seeking adjournment on one pretext or the other. As on dated 05.09.2020, when the matter was fixed for hearing final through video through video conference, the Id. Authorised Representative of the claimant did not appear to argue on the matter through video conference. When the Reader of this court had telephonically contacted with the Id. Authorized Representative for the claimant, he had telephonically informed to the Reader of this court that he was to appear physically in the Karkardooma Court physically, so,



he was not able to argue on the matter through video conference, on that day. Whereas, the Id. Authorized Representative of the management had appeared, even on that day, through video conference. The Id. Authorized Representative of the management had told to the court that he was ready to argue on the matter, on that date. However, in the interest of justice, the court had adjourned the matter for dated 22.09.2020 for hearing final arguments through video conference and granted last and final opportunity to the claimant to argue on the matter through video conference. But, on dated 22.09.2020, initially the AR of the claimant did not appear to argue on the matter through video conference and when, the Reader of this court had telephonically contacted him, the Id. Authorized Representative had telephonically informed him that he would not appear through video conference to argue in the present matter. But, when this court was dictating the order, the Id. Authorized Representative for the claimant had appeared through video conference and stated that he was not ready to argue on the matter as he was not having the file with him. Since, the Id. Authorized Representative for the management was ready to argue and this court

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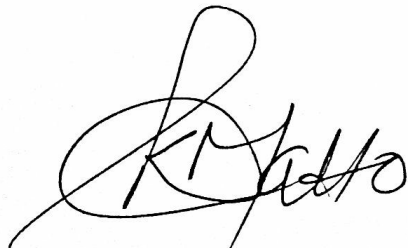
had observed that the Authorized Representative of the claimant is a negligent person and he was making lame excuse to seek adjournment, so, this court had heard the arguments of the Id. Authorized Representative for the management and adjourned the matter for today for order.

20. When, the Id. Authorized Representative for the claimant did not succeed in getting adjournment by making lame excuse, then, on dated 23.09.2020 at 4:45 PM, he had sent an application for transfer of this case and other cases of this Authorized Representative of this claimant to some other court, on the e.mail address of this court, which is prepared by the Rouse Avenue District Court in the name of Reader of this court and after the court hours, this Id. Authorized Representative for the claimant had telephonically told to the Reader of this Court that he would not appear and this court should dispose off his said application for transfer of the cases. The print out of the said application was taken. No one had appeared on behalf of the claimant on dated 24.09.2020 till 11:50 AM and this court had dismissed the said application being false and frevolous. But, this court had left the Id.



Authorized Representative for the claimant at liberty to send the written submissions on the e.mail address of this court till 2:00 PM on 26.09.2020 i.e. today, as this matter was pre-fixed for final order for today at 4:00 PM. Today, at about 11:00 AM, this Id. Authorized Representative of the claimant had appeared through video conference in some other case and told to this court that he will not send any written submission in the present case and this court is at liberty to pass any order and thus, the written submissions have also not been filed/sent to this court by the Authorized Representative for the claimant.

21. The Ld. Authorized Representative for the management has submitted that the claimant has claimed in para no. 1 of his statement of claim that he was continuously doing job in the management since 10.04.2015 and in para no. 5 of statement of claim, he has stated that his services have been illegally and unjustifiably terminated by the management on dated 13.05.2016. He has also submitted that the claimant has pleaded in para no. 7 of statement of claim that he had sent a demand letter dated 28.05.2016 and submitted that the claimant

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has relied upon the postal receipt Ex. WW1/6, vide which, he has claimed that he had sent the demand notice Ex. WW1/5 dated 28.05.2016 to the management and submitted that the postal receipt Ex. WW1/6 reveals that it bears the dated 27.04.2016 and submitted that if the claimant claims that his services were terminated by the management on dated 13.05.2016, then, how could he serve the notice to the management, for his reinstatement that too prior to the termination of his services and submitted that the claimant has never sent any demand notice to the management and submitted that this claimant during his cross examination has stated that he did not send demand notice to the management prior to his alleged termination of his services by the management. He has also submitted that the claimant has filed the present case against M/s City Park Green Resort and submitted that no such management is there in existence and submitted that the claimant has claimed that the demand notice Ex. WW1/5 was sent to one Rajesh, and name and address of any of the management are not mentioned on the postal receipt Ex. WW1/6 and submitted that Sh. Karan Aggarwal is running business in the name of Krish Developers Pvt. Ltd. On the address given in the statement of



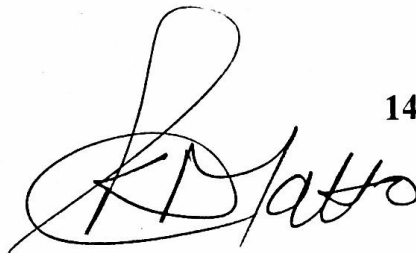
claim by the claimant and submitted that Krish Developer Pvt Ltd. is not party to the present lis. He has also submitted that this claimant had joined the M/s Krish Developers Pvt Ltd. in the month of May, 2016, as Bouncer and worked therein only for 4-5 days, but, his work was found to be unsatisfactory,so, management had discontinued/removed him on 13.05.2016 and submitted that the claimant has placed on record the forged and fabricated documents. The same have no concern with the Krish Developers Pvt Ltd.

22. He has also submitted that the Authorized Representative of the Krish Developers Pvt Ltd. had applied for information regarding the M/s City Park Green Resort, (who is impleaded as management in the present case) from the Registrar of companies of Delhi and Haryana under the Right to Information Act and the information received under the RTI online is Ex. MW1/2 (colly) which reveals that no company with the name and style of City Park Green Resort is found to be registered with the office of Registrar of Company and also submitted that some other companies namely city Park Promoters Pvt Ltd., City Parks Pvt Ltd. and Smart City Parking Management India Pvt. Ltd were found at

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different places. He has also submitted that the claimant has failed to bring on record any cogent documentary evidence to show that he had served in the Krish Developer Pvt Ltd. for a period of at least 240 days, even otherwise, Krish Developer is not party to the present lis and submitted that the document Ex. WW1/2 is copy of attendance register for the month of March, 2016 of some city Park Green Resort and further submitted that the claimant has also placed on record copies of challans of eatables Ex. WW1/1 whereon the stamp of City Park Green Resort is affixed and the challans stand in the different names, but, these challans have no concerned with the Krish Developers Pvt Ltd. and submitted that the claimant has impleaded only M/s City Park Green Resort in the present case and address of M/s Krish Developers Pvt Ltd. is misused for serving the notice to the management and submitted that on the address of M/s Krish Developers Pvt Ltd, no such company in the name of M/s City Park Green Resort was ever run and submitted that issues in the present case were framed that whether the claimant is covered within the definition of workman provided U/S 2(s) of I. D. Act and submitted that since the claimant has failed to prove on record that he had worked in the management for a period of 240 days,



so, he does not fall within the definition of workman. He has also submitted that the claimant has also failed to bring on record any cogent evidence to show that he has served in the management since 10.04.2015 to 13.05.2016 or that he had ever served any demand notice to the management or that his services were terminated by the management on dated 13.05.2016 and submitted that the management has nowhere pleaded in the written statement that the claimant had resigned from the services voluntarily and submitted that issue no.2 has been inadvertently framed by the predecessor of this court. He has further submitted that since the claimant has also failed to prove on record that he had served the demand notice prior to the filing of the case against the management , so, the statement of claim filed by the claimant is liable to be dismissed.

23. I have given thoughtful consideration to the submissions made by the Ld. Authorized Representative of the management and perused the record.

24. The perusal of the record reveals that the claimant has claimed

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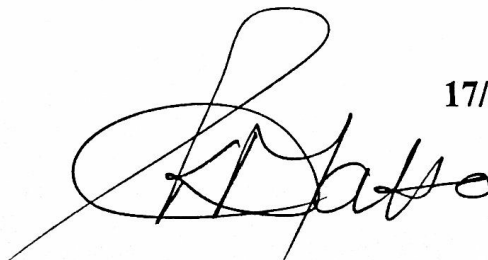
that he was continuously serving the management since 10.04.2015 as Security Guard and his last drawn wages were Rs. 18,500/- and on dated 13.05.2016, his services were illegally, arbitrarily and unjustifiably terminated by the management and on dated 28.05.2016, he had sent a demand letter dated 28.05.2016 to the management. Since, the management has claimed in it's written statement that this claimant was called in the month of May, 2016 and he had worked only for 4-5 days ,but, his work was found to be unsatisfactory, he was discontinued w.e.f. 13.05.2016 and the management has also denied to have received the demand letter dated 28.05.2016.

25. The burden of proving issue no.1 and 3 was on the claimant. Since, the perusal of the record reveals that the management has nowhere claimed in it's written statement that the claimant had resigned from the service of the management voluntarily and the Id. Authorized of the management has also submitted that this issue no.2 has been framed inadvertently. In the considered opinion of this court, also, this issue no.2 has been framed inadvertently, so, this issue is deleted being redundant.

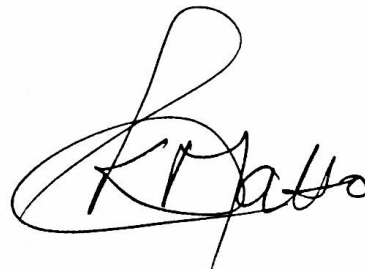
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26. The burden of proving issue no.1 and 3 was on the claimant and in order to discharge his burden of proving these issues, the claimant has examined himself vide his affidavit Ex. WW1/A and he has reiterated the statement of claim therein. He has relied upon the photocopies of challans of eatables Ex. WW1/1, photocopy of attendance register of City Park Green Resort for the month of March, 2016 Ex. WW1/2, carbon copy of complaint dated 18.05.2016 filed before Assistant Labour commissioner Ex. WW1/3, Report of Labour Inspector dated 06.07.2016 Ex. WW1/4, carbon copy of demand notice dated 28.05.2016 Ex. WW1/5, two postal receipts, both dated 27.04.2016 Ex. WW1/6 and Ex. WW1/7, failure report u/S 2-A (1) of Industrial Dispute Act of conciliation officer /Labour Officer, District North West dated 8.02.2017 Ex WW1/8. He was cross examined by Id. Authorized Representative for the management.

27. During his cross examination, he has reiterated that he had joined the management on 10.04.2015 and his services were terminated by the management on dated 13.05.2016. He has admitted

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it to be correct that on the postal receipt Ex. WW1/6, the date of posting is mentioned as 27.04.2016. When, this claimant was asked the question by the Id. Authorized Representative for the management that did he send the demand notice on dated 27.04.2016 i.e. prior to the alleged termination of services by the management, then, he had stated that he did not send the demand notice prior to the termination of his services and stated that there may be some mistakes in the date mentioned in the postal receipt. The claimant has also admitted it to be correct that the proprietor of the management sued by the claimant was Rajesh Aggarwal. He has also stated that he has placed on record the photocopies of challans Ex. WW1/1 and photocopy of attendance register Ex.WW1/2, to prove that he had worked in the management since 10.04.2015 to 13.05.2016. At the time of his cross examination, the claimant started asserting that the management has two names first one is City Park Green Resort and second is Krish Developers Pvt. Ltd. He has also stated that he was having confusion in view of two names of the management, so, he did not implead Krish Developers as party. He has also admitted it to be correct that he is not in possession of any appointment letter. He has also admitted it to be correct that the



management did not provide any letter of termination to him. He has further admitted that he does not have any challan of the year 2015. He has also admitted it to be correct that he did not place on record any report of track of service of demand notice dated 28.05.2016 to the management. He has denied that he has never sent any demand notice to the management. He has also denied that he was never employee of Krish Developers Pvt Ltd. .He has denied that City Park Green Resort was never in existence, at the address as mentioned in the statement of claim, he has denied that the address of City Park, as mentioned in the statement of claim, is the address of Krish Developers Pvt Ltd. He has denied that the Govt. of India had ever declared in any information received under the RTI that there was no management in the name of City Park Green Resort. He has denied that Rajesh Aggarwal and Karan Aggarwal were never proprietors/owner/partners of City Park Green Resort. He has also stated that he does not know whether Krish Developers Pvt Ltd. has 15 Directors. He has denied that the Krish Developers Pvt Ltd. Works only for 60-80 days in an year. He has also denied that Krish Developers Pvt Ltd .does not have any permanent employee. He has also stated that he does not know



whether Krish Developers Pvt Ltd. had taken the security person from outsider or not. He has denied that the management remains in need of security guards only during the wedding seasons. He has denied that Krish Developers Pvt Ltd. has no concern with the City Park Green Resort. He has denied that he has filed false case against the management or that he has affixed the stamps on Ex. WW1/2 of his own.

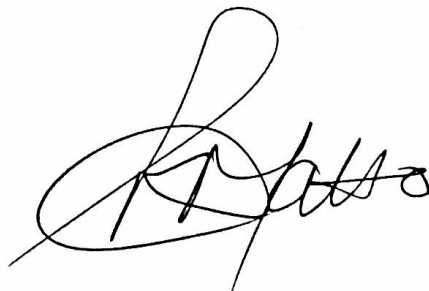
28. Sh. Akhil Kaushal has been examined as MW1, vide his affidavit Ex. MW1/A. He has testified that he is authorized signatory duly appointed by Sh. Karan Aggarwal to plead and sign the documents relating to the case and he is fully conversant with the facts and circumstances of the case. He has also testified that Karan Aggarwal is the one of the Director of M/s Krish Developers Pvt Ltd and not of City Park Green Resort. He has also testified that Karan Aggarwal has not received any demand notice from the claimant at any point of time and Sh.Karan Aggarwal had received the summons of this court, at his address, which is the address of Krish Developers Pvt Ltd and thereafter he had engaged a counsel to represent the actual facts



before the court stating that the address used to contest this case is of Krish Developers Pvt Ltd and not of City Park Green Resort. He has also testified that Krish Developers Pvt Ltd. is indulged in the business of renting out the banquet hall for the purpose of marriage functions and it works only in such season, which is found suitable for the marriage, as per the Hindu Calender and also stated that the Banquet Hall functions only for 60 to 80 days in an year and there is no point of keeping any employee in the premises on permanent basis. He has also testifies that the counsel was engaged for narrating actual scenario to the court, but, counsel engaged, had filed the reply otherwise and copy of the complaint filed against the said counsel in the bar counsel of Delhi is Ex. MW1/1. He has also testifies that there is no such organization in the name of City Park Green Resort, and as per the reply received under the RTI, is Ex. MW1/2. He has also testifies that Karan Aggarwal has no relation with the claimant. He never knew the claimant prior to this case. Karan Aggarwal had never engaged the claimant, as Security Guard in his premises, as the premises of the Karan Aggarwal remains functional only for 60-80 days in a years and when, there is requirement of security staff, the same is

**LID no.111/17**


**21/39**

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procured from the security agencies, on a temporary basis. He has relied upon the photocopy of complaint filed against the previous Authorized Representative of the management, in the Bar Counsel of Delhi Ex.MW1/1 and Reply received under the RTI Ex. MW1/2.

29. He was cross examined by the Id. AR for the claimant and during his cross examination, he has admitted it to be correct that he had not mentioned in his affidavit Ex.MW1/A that he was Assistant HR of the management. He has denied that he had not placed on record any document, which may prove that he was authorized by management to depose on behalf of management. The witness had shown the authority letter Ex.MW1/W1. He has admitted that Karan Aggarwal is Director of Krish Developer. He has deposed that he can identify signatures of Karan Aggarwal if shown to him. Ld. AR for workman had shown affidavit of Karan Aggarwal filed in support of written statement and on seeing the same he had correctly identified the signatures of Karan Aggarwal on the affidavit Ex.MW1/W2 at points A & B. Thereafter, Ld. Authorized Representative for claimant had shown the written statement Ex. MW1/W3 to the witness and on seeing



the signatures of Sh.Karan Aggarwal thereon he had correctly identified the signatures of Sh. Karan Aggarwal at points A & B. Ld AR for claimant had also shown the document Ex.WW1/2 to this witness and on seeing the same witness stated that the document does not belong to the Krish Developer Pvt Ltd. and it belongs to City Park Green Resort. He has deposed that he does not know whether Rajesh Aggarwal & Karan Aggarwal are owners of City Park Green Resort or not. He has deposed that he does not know whether the address of City Park Green Resort, G.T Karnal Road near Splash Water Park, Alipur, Delhi-36 is correct or not. Ld. Authorized Representative for claimant had put up Ex.WW1/1 before the witness and on seeing the same the witness had stated that he does not know whether the same document belongs to City Park Green Resort or not but the same were not of Krish Developer Pvt Ltd. Thereafter, Ld. Authorized Representative for claimant has again put up Ex.WW1/1 and shown the stamp of Krish Developer Pvt Ltd, on the same document and on seeing the same the witness had stated that this Stamp does not belong to Krish Developer. Ld Authorized Representative for claimant had again put up Ex.WW1/1 and on seeing the same, he had stated



that page no.2 to 6 of this documents do not belong to Krish Developers Pvt Ltd, but, he cannot say whether these documents belong to the City Park Green Resort or not. He has admitted it to be correct that he had nowhere mentioned in his affidavit Ex.MW1/A that he had come to depose on behalf of Krish Developers Pvt Ltd. He has deposed that he is graduate and he is aware of the contents of affidavit Ex.MW1/A. He has deposed that he has not come to depose in the present case on behalf of management namely M/s City Park Green Resort. He has admitted it to be correct that he had no objection, if Award is passed against M/s City Park Green Resort. The testimony of this witness is found inconsistent to the contents of written statement filed in the court.

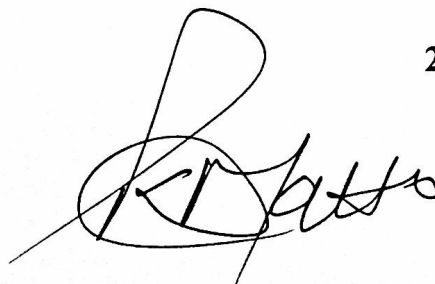
30. The burden of proving issue no.1 and 3 was on the claimant, so, in order to avoid the repetition , both the issues have been taken together for discussion.

31. Since, claimant has claimed that he worked in the management w.e.f. 10.04.2015 to 13.05.2016. So it was incumbent on the part of the



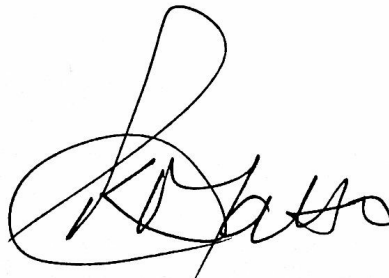
claimant to prove that he worked in the management for the said period or for a period of at least 240 days prior to the alleged termination of his services on 13.05.2016.

32. The claimant has relied upon the photocopy of attendance register of City Park Green Resort and photocopies of certain challans to prove that he had worked in the management for the said period, but, the photocopies of the challans Ex. WW1/1, reveal that the same are in the different names viz. Krish Developers Pvt Ltd., Hotel City Park, Ram Niwasji, but, none of consignee to the said challans is party to the present lis and the photocopy of attendance register of City Park Green Resort for the month of March 2016 Ex. WW1/2 is not signed by any athrowised signatory of the management, so, it cannot be inferred from these documents that claimant had served in the management for the period as claimed by him or for a period of 240 days. The Id. Authorized Representative of the management has submitted that the claimant has given the address of the management, but, there was/is no management in the name of M/s City Park Green Resort and submitted that it is the address of Krish Developers Pvt Ltd. The

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Ld. Authorized for the management has submitted that he has received the information from the Registrar of company Delhi & Haryana Ex. MW1/2 and the information received under RTI reveals that there is no company in the name and style of City Park Green Resort.

33. The claimant has claimed that he has worked in the management since 10.04.2015 to 13.05.2016. He was under obligation to prove the same. The claimant has sued M/s City Park Green Resort in the present case, but, as the Id. Authorized Representative for management has submitted that it is the address of M/s Krish Developers Pvt Ltd and at the time of his cross examination, the claimant started asserting that the management has two names, first one is M/s City Park Green Resort and second is M/s Krish Developers. But, the claimant has nowhere mentioned in his statement of claim that M/s City Park Green Resort has two names. Thus, it appears to the court that this claimant has concocted the story at the time of evidence, whereas, he failed to bring on record any management M/s City Park Green Resort has two name. The claimant was under obligation to prove that he had worked in the management

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for the period as claimed in his statement of claim or at least for a period of 240 days.

34. In **Range Forest Officer v. S.T. Hadimani, 2002 (93) FLR 179** (SC), the Hon'ble Supreme Court held that it was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside.

35. In **Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and another, 2004 (4) LLN 845; Municipal Corporation, Faridabad v. Siri Niwas, 2004 LLR 1022 (SC); 2004 (4) LLN 785 and Madhya Pradesh Electricity Board v. Hariram, 2004 (4) LLN 839; 2005 LLR 1 (SC)**, the Hon'ble Supreme Court reiterated the principle that burden of proof lies on the

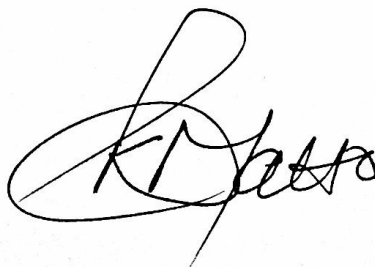
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workman to show that he had worked continuously for 240 days in the preceding one year prior to his alleged retrenchment and it is for the workman to adduce an evidence apart from examining himself to prove the factum of his being in employment of the employer.

36. In **Surendranagar District Panchayat and Anr. v. Jethabhai Pitamberbhai, 2006 LLR 250** the Hon'ble Supreme Court held that when the workman apart from examining himself in support of his contention has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he has worked with the employer for 240 days to get the benefit under section 25F of the Industrial Disputes Act, in the absence of evidence on record the Labour Court and the High Court have committed an error in law and fact in directing reinstatement of the respondent-workman.

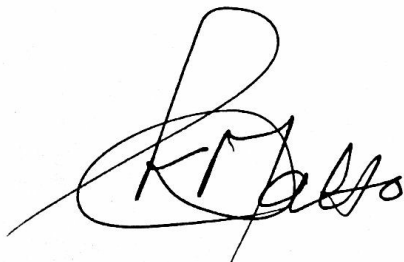
37. In **R.M. Yellatti v. The Asst. Executive Engineer, JT 2005 (9) SC 340: 2006 LLR 85 (SC)**, the decisions referred to above were noted and it was held as follows:

*"Analyzing the above decisions of this court, it is*

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clear that the provisions of the Evidence Act in terms do not apply to the proceedings under section 10 of the Industrial Disputes Act. However, applying general principles and on reading the aforesaid judgments, we find that this court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily waged earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus in most cases, the workman (claimant) can only call upon the employer to produce before the court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self-serving statements made by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non-production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the tribunal to draw an adverse inference against the management."

38. In **UCO Bank v. Presiding Officer- 2000 I CLR 105** it was held that: Burden of proving a fact rests on the party who substantially asserts the affirmative of the issue and not upon the party who denies it, for, a negative is usually incapable of proof.






39. In the light of the law laid down in above said judgments, it was incumbent on the part of the claimant to prove that he worked in the management since 10.04.2015 till 13.05.2016 or at least for the period of 240 days prior to the alleged termination of his services on dated 13.05.2016.
40. No doubt that this claimant has examined himself vide his affidavit Ex.WW-1/A. This claimant has pleaded in para no.2 of his affidavit that he worked in the management since 10.04.2015 as Security Guard, whereas, in para no. 6 of his same affidavit,he has stated that his services were terminated by the management on dated 13.05.2016, whereas, the management has taken the plea in the written statement that this claimant had worked in the management for 4-5 days as Bouncer in the month of May 2016.
41. The claimant has relied upon the photocopies of challans Ex. WW1/1, but, the consignees therein are not party to the present lis and photocopy of attendance register of City Park Green Resort for the month of March, 2016, but, the same documents do not bear the

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signatures of any authorized signatory of the management. So, the same do not inspire any confidence. The testimony of the claimant is also found to be inconsistent to his statement of claim, as at the time of his cross examination, he has started claiming that the management has two names. The claimant has filed the statement of claim against M/s City Park Green Resort, but, at the time of his cross examination, when he was given suggestion that he was never employee of Krish Developers Pvt Ltd, then he has denied such suggestion. Whereas, the claimant has not impleaded M/s Krish Developers Pvt Ltd, as a party in his statement of claim. The claimant has also nowhere pleaded in his statement of claimant that he was appointed by M/s Krish Developers Pvt Ltd or that his services were terminated by M/s Krish Developers Pvt Ltd.

42. So, on the basis of the affidavit of the claimant Ex. WW1/A, or on the basis of the documents Ex. WW1/1 and WW1/2, it cannot be said that the claimant had worked in the management since 10.04.2015 till 13.05.2016 or for a period of at least 240 days prior to the alleged termination of his services, as the testimony of the claimant

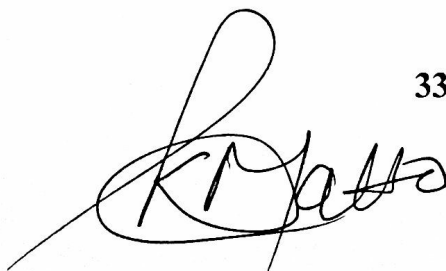
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and his documents do not inspire any confidence, so, it cannot be held that the claimant was workman of the management within the meaning of Section 2 (S) of the Industrial Disputes Act. Therefore, issue no.1 is decided against the claimant and in favour of management.

43. The claimant has claimed that he had sent demand notice dated 28.05.2016 Ex. WW1/5 to the management, he has relied upon the postal receipt Ex. WW1/6 which shows that some letter was posted to one Rajesh vide this postal receipt Ex. WW1/6 on dated 27.04.2016. The Id. Authorized Representative for the management has submitted that the complete address of Rajesh is also not mentioned on this postal receipt Ex. WW1/6.
44. Since, the claimant has claimed that his services were illegally terminated by the management on dated 13.05.2016 and the claimant has claimed that he had sent the demand notice Ex. WW1/5 dated 28.05.2016, whereas, the postal receipt Ex. WW1/6, vide which, the demand notice Ex. WW1/5 is alleged to have been sent to the management, bears date 27.04.2016. If the services of the claimant



were terminated by the management on dated 13.05.2016, then how, the claimant could send the demand notice for reinstating him in the management on dated 27.04.2016 (i.e. prior to alleged termination of his services), as the postal receipt Ex. WW1/6 relied upon by the claimant bears the date 27.04.2016. Thus, the testimony of the claimant is inconsistent to his own document Ex. WW1/6. Since, the claimant has claimed that he had served the demand notice dated 28.05.2016 Ex. WW1/5 to the management, so, it was incumbent on the part of the claimant to prove that the claimant had served the demand notice to the management after termination of his services and prior to the filing of case against the management. But, as the postal receipt Ex. WW1/6, relied upon the claimant shows that some letter was sent to one Rajesh on dated 27.04.2016 i.e. prior to the alleged termination of his services by the management. The claimant has also failed to prove that said Sh. Rajesh was authorized to receive any such notice on behalf of the management, as the Id. Authorized Representative for the management has submitted that the claimant has misused the address of M/s Krish Developers Pvt. Ltd. and since the notice of the present case was received on the address of the

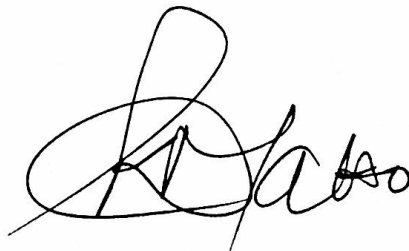
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Krish Developers Pvt Ltd. and this claimant had worked in the Krish Developers for few days, so, the Krish Developers Pvt Ltd has come in the present case to assist to the court, so that, the claimant may not obtain any award byway of playing fraud on the court, on the address of the M/s Krish Developers, as, M/s City Park Green Resort was/is not in existence on the address given by the claimant in the statement of claim and it is the address of the M/s Krish Developers Pvt Ltd, which is shown to be the address of the M/s City Park Green Resort by the claimant in his statement of claim. But, such contention of the Id. Authorized Representative of the management are found to be beyond of pleading, as in the written statement, the management has nowhere stated that the claimant had served in the Krish Developers Pvt Ltd. So, such submission of Id. Authorized Representative for the management does not have any force.

45. The claimant has failed to prove that the demand notice to the management could be served through Rajesh (who is named in the postal receipt Ex. WW1/6) or that Rajesh was authorized to receive the demand notice. The postal receipt Ex. WW1/6 does not bear the



complete address of the management and since the management has denied to have received any demand notice in it's written statement and, so, it was obligatory for the claimant to prove that he had served demand notice to the management prior to the filing of the case against it and in order to prove the same, the claimant could file track report. But, admittedly he did not file any track report . He could call any witness from the post office who could prove that the demand notice Ex. WW1/5, which was sent to the management vide postal receipt Ex. WW1/6 and it was served to the management through Rajesh ( who is named in the postal receipt Ex. WW1/6), but, as the claimant has failed to call any person from the post office. Claimant has claimed that demand notice dated 28.05.2016 EX. WW1/5 was served to the management by way of sending the same vide postal receipt Ex. WW1/6 dated 27.04.2016, so, from such inconsistent documents, relied upon by the claimant, it appears to the court that this claimant has tried to misuse the postal receipt dated 27.04.2016 Ex. WW1/6, in the present case, as the claimant has failed to give any reasonable explanation about such postal receipt even during his cross examination, as the claimant has claimed that his services were

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terminated by the management on 13.05.2016, then how, the demand notice dated 28.05.2016 Ex. WW1/5, vide postal receipt dated 27.04.2016 Ex. WW1/6, could be sent to the management prior to the termination of his services, for his reinstatement.

46. In case of **Sindhu Resettlement Corporation Ltd., Vs. Industrial Tribunal of Gujrat and others, AIR 1968, Supreme Court 529 (V 55 C 115), their Lordship of Supreme Court** was pleased to hold as under :-

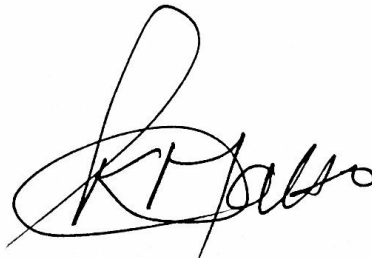
*"It may be that the Conciliation officer reported to the Government that an industrial dispute did exist relating to the reinstatement of respondent No. 3 and payment of wages to him from 21<sup>st</sup> February, 1958, but when the dispute came up for adjudication before the Tribunal, the evidence produced clearly showed that no such dispute had ever been raised by either respondent with the management of the appellant. If no dispute at all was raised by the respondents with the management, any request sent by them to the Government would only be a demand by them and not an industrial dispute between them and their employer. An industrial dispute, as defined, must be a dispute between employers and employees, employers and workmen, and workmen and workmen. A mere demand to a Government, without a dispute being raised by the workmen with their employer cannot become an industrial dispute. Consequently, the material before the Tribunal clearly showed that no such industrial dispute, as was purported to be referred by the State Government to the tribunal had ever existed between the appellant Corporation and the respondents and the State government, in making a reference, obviously committed an error in basing its opinion on material which was not relevant to the formation of opinion. The Government had to come to an opinion that an industrial dispute did exist and that opinion could only be formed on the basis that there was a dispute*



*between the appellant and the respondents relating to reinstatement. Such material could not possibly exist when, as early as March and July, 1958 respondent No. 3 and respondent No. 2 respectively had confined their demands to the management to retrenchment compensation only and did not make any demand for reinstatement. On these facts, it is clear that the reference made by the Government was not competent. The only reference that the Government could have made had to be related to payment of retrenchment compensation which was the only subject-matter of dispute between the appellant and the respondents".*

47. In view of the law discussed herein above, I am inclined to hold that the claimant was under obligation to serve the demand notice to the management prior to the filing of the case against the management and in the case in hand, the claimant has failed to bring on record any cogent documentary evidence to prove that he had served the demand notice to the management, after alleged termination of his services by the management and prior to the filing of the case against the management and in the absence of service of demand notice to the management by the claimant prior to the filing of the case against it, the Industrial Dispute did not exist between the claimant and the management.

48. Had there been any Industrial Dispute between the claimant and the management, the claimant could issue demand notice to the management prior to the filing of the case against it. No doubt, that the claimant has claimed that he had served demand notice dated 28.05.2016 Ex. WW1/5 to the management, but, as the postal receipt dated 27.04.2016 Ex WW1/6 does not bear the complete address of

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the management and it also bears the date of its posting as 27.04.2016 (i.e. prior to the alleged termination of services by the management), so, the claimant has failed to prove that he has served any demand notice Ex. WW1/5 to the management, prior to the filing of the case against the management (after termination of his services). So, the testimony of the claimant which is found to be inconsistent to the contents of Ex. WW1/6. So, the documents Ex. WW1/5 and Ex. WW1/6 do not inspire any confidence, therefore, this court is inclined to hold that this claimant failed to prove that he had served any demand notice Ex. WW1/5 to the management prior to the filing of the case against it and without serving of the demand notice to the management, prior to the filing of the case, the claim petition of the claimant is liable to be dismissed on this ground also.

49. The claimant has failed to prove that he had worked in the management since 10.04.2015 till 13.05.2016 or for a period of at least 240 days prior to the alleged termination of his services on dated 13.05.2016. The claimant has also failed to bring on record any cogent documentary proof to show that the management had terminated his services on dated 13.05.2016, except his self serving affidavit and in view of the inconsistent testimony of the claimant, the same does not inspire any confidence. He has also failed to prove that he had served any demand notice to the management prior to the filing of the case



against the management (after his alleged termination of his services)  
Therefore, issue no.2 is also decided against the claimant and in view  
of the findings on both the issues against the claimant and in favour of  
the management, I am inclined to hold that the claimant is not entitled  
to get any relief under Section 25 (F) of the Industrial Dispute Act.  
Accordingly, the statement of claim of the claimant is hereby dismissed  
being devoid of merit.

50. The attested copy of the award be sent to the Office of the  
Deputy Labour Commissioner, Government of NCT of Delhi of  
Distt./Area concerned for publication as per rules and judicial file be  
consigned to Record Room, as per rules after compliance of necessary  
legal formalities.

**Announced on 26.09.2020**  
**through video conference (ADDITIONAL DISTRICT & SESSIONS JUDGE)**  
**by using cisco webex**

  
**PAWAN KUMAR MATTO**  
**PRESIDING OFFICER, LABOUR COURT-IX**  
**ROUSE AVENUE COURT, NEW DELHI-**