

\$~2

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

+ **W.P.(C) 7188/2019 & CM APPLs. 15129/2020 & 15130/2020**

**BSH HOUSEHOLD APPLIANCES MANUFACTURING
PVT. LTD.**

..... Petitioner

Through: Mr. Praveen Mahajan, Advocate.
versus

VIKAS KUMAR SHARMA AND ANR.

..... Respondents

Through: Mr. Anuj Aggarwal, Advocate for R-1.
Mr. Saumitra Singhal, Advocate for R-2.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **15.07.2020**

1. This hearing has been done by video conferencing.

CM APPL.15128/2020

2. The present application has been filed by Respondent No.1 for release of back wages deposited in this Court in terms of order dated 25th July, 2019. The case of the Respondent No.1/Workman (*hereinafter*, 'Workman') is that he is completely unemployed till date and by the impugned Award dated 11th October 2018, the Labour Court had held that he is entitled to the relief of reinstatement in service, with full backwages and consequential benefits.

3. Mr. Praveen Mahajan, ld. counsel appearing for the Petitioner/Management (*hereinafter*, 'Management') submits that there is a serious dispute as to whether the Workman is an employee of the Petitioner or of Qess Corp Ltd (formely known as Ikya Human Capital Solution Pvt. Ltd.)

i.e. Respondent No.2. In view thereof, the Court had directed stay of the impugned award, subject to deposit of the entire amount awarded by the Labour Court.

4. On behalf of Respondent No.2, Mr. Saumitra Singhal, Id. counsel has appeared. It is his submission that the Workman has not completed 240 days of employment and the version of the Petitioner/Management was not considered by the Labour Court.

5. Considering the overall facts and circumstances as well as similar orders, which have been passed by Coordinate Benches of this Court as annexed with this application and owing to the lockdown and COVID-19 outbreak, since Workman is stated to be unemployed at the present moment, this Court is of the opinion that some amount may be released to the Workman while Id. counsels for both the companies i.e. Petitioner and Respondent No. 2 seek their respective instructions.

6. It also appears that there is possibility of the issues being amicably resolved. Accordingly, the matter is referred to the Delhi High Court Mediation and Conciliation Centre for appointment of a Mediator, who is familiar with labour disputes.

7. List before the Delhi High Court Mediation and Conciliation Centre on 27th July, 2020 at 2:00 pm. The mediation proceedings can be held through video conferencing.

8. The Petitioner has deposited two demand drafts of Rs.2,25,972/- and Rs.13,04,317/-, with the Registrar General of this Court, which are in the FDR. In the meantime, the amount of Rs.2,25,972/- without the interest component, be released to the Workman upon a personal bond being furnished by him in which he will undertake to re-deposit the same, if

directed to do so and subject to the orders which may be passed by this Court. This order shall completely be without prejudice to the contentions and issues raised by the Petitioner as also Respondent No.2 that the Workman is not entitled to reinstatement or back wages.

9. Reply to the applications be filed within four weeks. Rejoinder, if any, be filed within two weeks thereafter.

10. List before the Registrar General on 4th August, 2020.

11. List before Court on 2nd September, 2020 for hearing on all pending applications.

PRATHIBA M. SINGH, J.

JULY 15, 2020/dk/A