



\$~50

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

+ W.P.(C) 14463/2021

ALL INDIA RADIO

..... Petitioner

Through: Ms. Shruti Sharma, Adv.

versus

TEJPAL

..... Respondent

Through: Mr. Jawahar Raja and Ms. L. Gangmei, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

%

08.05.2023

CM APPL. 11084/2022 -Release of amount.

1. This is an application filed by the respondent seeking release of the sum of Rs.1 lakh deposited by the petitioner as a condition for stay of the impugned award dated 23.02.2021.
2. A reply opposing the application has been filed. Learned counsel for the petitioner vehemently submits that the impugned award in itself is perverse and liable to be set aside by the Court. The learned Industrial Tribunal has erred in concluding that the respondent/workman was able to establish an employer-employee relationship with the petitioner. She contends that in fact the evidence based on which the learned Tribunal has given the aforesaid finding in itself show that the workman was always engaged by a Contractor and



could therefore not be treated as an employee of the petitioner. She, therefore, prays that the application be dismissed.

3. On the other hand, learned counsel for the respondent seeks to support the impugned award and submits that it was for the petitioner to lead cogent evidence to demolish the respondent's/workman's categorical stand before the learned Tribunal that he was in fact engaged by the petitioner/All India Radio. The petitioner having failed to do so cannot be permitted to urge that the findings of the learned Tribunal were erroneous in any way. He submits that the respondent having been illegally terminated is without any source of income for the last many years and therefore, prays that at least this amount of Rs.1 lakh deposited by the respondent be released in his favour.
4. Having considered the submissions of learned counsel for the parties, I am of the considered view that taking into account that under the impugned award, the respondent is entitled to receive a sum over Rs. 2 lakhs from the petitioner and his stand that he is without any source of income whatsoever, it would be in the interest of justice that at least the amount deposited by the petitioner is released in favour of the respondent/workman.
5. The application is, accordingly, allowed by directing the Registry to forthwith release, alongwith the accrued interest thereon, the amount of Rs.1 lakh deposited by the petitioner in favour of the workman/respondent. The same would, however, be subject to the respondent filing, within one week, an affidavit undertaking to refund the aforesaid amount in case the petitioner were to succeed before this Court.



6. The application stands disposed of.

W.P.(C) 14463/2021

7. List the petition on the date already fixed.

MAY 8, 2023
acm

REKHA PALLI, J