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

+ W.P.(C) 3779/2016 & CM No.16092/2016 (stay)

DELHI TRANSPORT CORPORATION Petitioner

Through: Mrs. Avnish Ahlawat, standing
counsel with Mr. Nitesh Kr. Singh and Ms.
Laweena Arora, Advs.

versus

SHRI RAM DHAN SINGH Respondent

Through: Ms. Rashmi B. Singh, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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17.10.2019

CM No.9092/2017 (u/s 17B of I.D.Act)

1. This is an application filed by the respondent/workman under Section 17B of the Industrial Disputes Act, 1947. It has been averred in the application that under the impugned Award the petitioner has been directed to reinstate the respondent with 50% backwages but despite the respondent/applicant's willingness to rejoin his services, the petitioner is adamant in not permitting him to do so. It has further been averred that despite his best efforts, the respondent has been unable to get any alternative employment. It is therefore prayed that the petitioner be directed to pay minimum wages to the respondent from the date of passing of the award.

2. Notice of the present application was accepted by learned counsel for the petitioner on 08.09.2017. No reply to the same has been filed even after two years. It is thus apparent that the petitioner



has no material to dispute the respondent's averments that he was continues to be unemployed. In these circumstances, this Court has no other option but to accept the un rebutted averments of the respondent that he is not gainfully employed.

3. The application, is therefore, liable to succeed and is accordingly allowed. The petitioner is directed to pay the last drawn wages/minimum wages, whichever is higher to the respondent, from the date of passing of the award. The said payment will be made on or before 7th of each month and will continue till the respondent reaches the age of superannuation or till the disposal of the writ petition, whichever is earlier. The up-to-date arrears will be paid to the respondent within a period of 8 weeks. The respondent will file an affidavit undertaking to refund the differential amount between the last drawn wages and minimum wages, in case the writ petition is allowed.

4. The application is disposed of.

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5. Despite repeated opportunities counter affidavit has not been filed. Learned counsel for the respondent submits that the counter affidavit is ready and will be filed within three days. It is made clear that in case counter affidavit is not filed within three days, the same will be accepted only subject to the payment of costs of Rs.5,000/- to the petitioner.

6. Rejoinder thereto, if any, be filed within four six weeks thereafter.



7. List on 11.03.2020.

OCTOBER 17, 2019 'SDP'

REKHA PALLI, J.