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

*Reserved on: 09.04.2026*

*Date of decision: 18.05.2026*

*Uploaded on: 18.05.2026*

+ **CM APPL. 45901/2025 in W.P.(C) 11851/2005**

MOOLCHAND KHAIRATI RAM HOSPITAL

.....Petitioner

Through: Dr. M.Y. Khan, Adv.  
versus

VIJENDER SINGH & ORS

.....Respondents

Through: Mr. Atul Nagranjan and Mr. Uddhav  
Tandon, Adv.

**CORAM:**

**HON'BLE MS. JUSTICE SHAIL JAIN**

**JUDGMENT**

**SHAIL JAIN, J.**

**CM APPL. 45901/2025**

1. The present Application has been filed on behalf of the Respondent/Workman under Section 151 of the Code of Civil Procedure, 1908 read with Article 226 of the Constitution of India, seeking vacation of the stay order dated 25.07.2005 passed by this Hon'ble Court in the present Writ Petition. The Respondent/Workman has, *inter alia*, sought vacation of the stay on the ground of alleged non-compliance of the order dated 21.09.2007 passed under Section 17B of the Industrial Disputes Act, 1947 (hereinafter referred to as '*the Act*').

2. The brief facts leading to the filing of the present Application are enumerated herein under:



**A.** The Respondent/Workman, Shri Vijender Singh, was employed as a Ward Boy with the Petitioner/Management, namely M/s Moolchand Khairati Ram Hospital and Ayurvedic Research Institute. It is stated that the Respondent/Workman was also associated with the workers' union functioning in the establishment and was serving as its office-bearer. His last drawn wages were Rs. 11,426/- (Rupees Eleven Thousand Four Hundred and Twenty-Six only) per month.

**B.** In the year 1998, allegations of misconduct were levelled by the Petitioner/Management against the Respondent/Workman pertaining to acts including demonstrations, gherao, picketing and other acts allegedly affecting the functioning of the establishment. Consequently, charge sheets dated 15.09.1998 and 02.12.1999 were issued to the Respondent/Workman. A domestic enquiry was thereafter conducted by the Petitioner/Management, pursuant where to the services of the Respondent/Workman came to be terminated *vide* dismissal order dated 03.04.2000.

**C.** It is an admitted position that, at the relevant time, certain industrial disputes concerning the establishment were pending adjudication. During the pendency of the said disputes, the Respondent/Workman was accorded the status of a "protected workman" under Section 33(3) of the Act by the Conciliation Officer *vide* order dated 14.06.2000.

**D.** Aggrieved by his dismissal, the Respondent/Workman instituted proceedings under Section 33-A of the Act before the Industrial Tribunal. Simultaneously, the Approval Application preferred by the Petitioner/Management under Section 33(2)(b) of the Act in



respect of the dismissal of the Respondent/Workman was also pending adjudication before the Industrial Tribunal.

**E.** Upon consideration of the pleadings and material placed on record, the learned Industrial Tribunal-II, Delhi, *vide* Award dated 01.12.2004, held that the dismissal of the Respondent/Workman was contrary to Section 33(3) of the Act inasmuch as prior permission had not been obtained before dismissing a protected workman during the pendency of the industrial dispute. Consequently, the learned Tribunal directed reinstatement of the Respondent/Workman with full back wages and continuity of service. The Approval Application preferred by the Petitioner/Management under Section 33(2)(b) of the Act also came to be dismissed *vide* order dated 24.02.2005.

**F.** Aggrieved by the aforesaid Award, the Petitioner/Management instituted the present Writ Petition being W.P.(C) No. 11851/2005 before this Hon'ble Court. *Vide* order dated 25.07.2005, this Hon'ble Court stayed the operation of the impugned Award dated 01.12.2004.

**G.** During the pendency of the Writ Petition, the Respondent/Workman filed an application under Section 17-B of the Act seeking payment of last drawn wages or minimum wages during the pendency of the proceedings. The said application came to be allowed by this Hon'ble Court *vide* order dated 21.09.2007, whereby the Petitioner/Management was directed to pay to the Respondent/Workman the last drawn wages or minimum wages, whichever was higher, on a month-to-month basis during the pendency of the Writ Petition.

**H.** In the interregnum, the present Writ Petition came to be dismissed in default on 21.02.2023 owing to non-appearance on behalf



of the parties. Thereafter, applications seeking restoration of the Writ Petition were filed on behalf of the Petitioner/Management. This Hon'ble Court, *vide* order dated 22.10.2024, recalled the order dated 21.02.2023 and restored the Writ Petition to its original position. The order dated 21.09.2007 passed under Section 17-B of the Act was also restored.

**I.** The grievance raised in the present Application is that despite the aforesaid order passed under Section 17-B of the Act, the Petitioner/Management has allegedly not been paying wages in accordance with the applicable minimum wages notified from time to time by the Government of NCT of Delhi and has continued to pay a lesser amount to the Respondent/Workman.

**J.** It is the case of the Respondent/Workman that while he is presently being paid approximately ₹11,426/- per month, the applicable minimum wages as on April, 2025 are stated to be ₹18,456/- per month, thereby resulting in a substantial differential amount becoming due and payable towards arrears.

**K.** The Respondent/Workman thereafter caused a legal notice dated 12.03.2025 to be issued to the Petitioner/Management seeking compliance with the order dated 21.09.2007 and payment of the alleged differential amount. According to the Respondent/Workman, despite receipt of the said notice, the Petitioner/Management failed to clear the alleged arrears.

**L.** The Respondent/Workman has further placed on record a computation chart alleging that a sum of ₹4,82,394/- has accrued towards differential wages payable under the order passed under Section



17-B of the Act.

3. In the aforesaid factual backdrop, the present Application seeking vacation of the stay order dated 25.07.2005 is under consideration before this Hon'ble Court.

4. On the aforesaid basis, the Respondent/Workman has contended that the order under Section 17-B of the Act is intended to provide subsistence to a workman during the pendency of proceedings and non-compliance thereof disentitles the Petitioner/Management from continuing to enjoy the benefit of the stay order dated 25.07.2005. On the aforesaid basis, it was urged that the stay order deserves to be vacated.

5. *Per contra*, learned counsel appearing on behalf of the Petitioner/Management opposed the present Application and submitted that the same is misconceived, not maintainable and liable to be dismissed.

6. It was submitted that the Petitioner/Management has been regularly complying with the order dated 21.09.2007 and has continuously been making payments to the Respondent/Workman under Section 17-B of the Act.

7. Learned counsel for the Petitioner/Management further submitted that the Respondent/Workman had been receiving the said payments for several years without any objection and the present grievance regarding alleged short payment has been raised belatedly.

8. It was further contended that the Respondent/Workman is not entitled to claim wages in the manner sought in the present Application and that the issue regarding computation of wages and alleged differential amounts is already the subject matter of proceedings pending adjudication before the learned Labour Court (LC No. 44/2024 under Section 33(C)(2) of the Act), where the workman has claimed ₹66,54,019/- as difference in wages.



9. It was also submitted that the present Application seeks to reopen disputed questions pertaining to computation of wages, which cannot constitute a ground for vacation of the stay order operating in the present Writ Petition.

10. On the aforesaid basis, learned counsel for the Petitioner/Management prayed that the present Application be dismissed.

11. This Court has heard the learned counsel for the parties and carefully perused the material placed on record.

12. The limited controversy which arises for consideration in the present Application is whether the alleged non-compliance of the order dated 21.09.2007 passed under Section 17-B of the Act, warrants vacation of the interim stay order dated 25.07.2005 operating against the Award dated 01.12.2004 passed by the learned Industrial Tribunal-II, Delhi.

13. Before advertng to the rival contentions, it becomes necessary to appreciate the legislative object and underlying scheme of Section 17-B of the Act. Section 17-B operates in a specific and narrowly defined field, namely, where an Award directing reinstatement of a workman has been passed by the Labour Court or Industrial Tribunal and the employer, assailing such Award, has preferred proceedings before the High Court or the Supreme Court. In such circumstances, during the pendency of the challenge, the legislature has imposed a statutory obligation upon the employer to pay to the workman the last drawn wages or the minimum wages under any law for the time being in force, whichever is higher, subject to the workman not being gainfully employed in any establishment.

14. The object underlying the aforesaid provision is not difficult to discern. The legislature, being conscious of the fact that challenges to



reinstatement awards often remain pending for considerable periods before Constitutional Courts, sought to ensure that a workman, in whose favour an Award of reinstatement has already been passed, is not left without means of subsistence merely because the employer has obtained an order staying the operation of such Award.

15. The Hon'ble Supreme Court in *Dena Bank v. Kiritikumar T. Patel*, (1999) 2 SCC 106, authoritatively explained the scope and purpose of Section 17-B of the Act and held that the provision was enacted with the avowed object of relieving, to some extent, the hardship caused to a workman due to delay in implementation of the Award on account of pendency of proceedings before the superior Courts. The Hon'ble Supreme Court observed that once the statutory conditions are satisfied, the employer becomes obligated to pay the workman wages contemplated under Section 17-B during the pendency of such proceedings.

16. This Court is in respectful agreement with the aforesaid exposition of law. The obligation cast by Section 17-B of the Act is not merely procedural or directory in nature, but constitutes a statutory mandate intended to preserve the minimum subsistence and dignity of the workman during the pendency of litigation initiated by the employer.

17. In the present case, the order dated 21.09.2007 passed by this Court specifically directed the Petitioner/Management to pay to the Respondent/Workman "last drawn wages or minimum wages, whichever is higher" during the pendency of the Writ Petition. The language employed in the said order is clear, unambiguous and admits of no restrictive interpretation.

18. The principal contention advanced on behalf of the Petitioner/Management is that it has been continuously paying a sum of



₹11,426/- per month to the Respondent/Workman and, therefore, there is substantial compliance with the order dated 21.09.2007. The Petitioner/Management has further contended that the amount presently being paid to the Respondent/Workman is in accordance with the terms and conditions of his employment as allegedly settled between the Management and the Workers' Union and, therefore, the Respondent/Workman cannot claim wages beyond the said settled amount.

19. This submission does not merit acceptance. The obligation arising under Section 17-B of the Act is statutory in character and operates independent of any private settlement, contractual arrangement or service condition governing the employment of the workman. Once this Court, *vide* order dated 21.09.2007, directed payment of “last drawn wages or minimum wages, whichever is higher”, the entitlement of the Respondent/Workman became regulated by the mandate of the said judicial order read with Section 17-B of the Act, and not by any alleged settlement or wage structure previously prevailing between the parties. Any settlement or arrangement inconsistent with the statutory minimum contemplated under Section 17-B cannot override the mandate of the statute or the binding directions issued by this Court.

20. This Court is further of the considered opinion that the obligation under Section 17-B of the Act is a continuing obligation and necessarily takes into account the minimum wages notified from time to time by the appropriate Government. The expression “minimum wages” occurring in the order dated 21.09.2007 cannot be frozen to the wage rates prevailing on the date of the order itself.



21. Minimum wages are revised periodically by the appropriate Government keeping in view inflationary trends, rise in cost of living and other socio-economic considerations. If the submission of the Petitioner/Management were to be accepted, the phrase “whichever is higher” occurring in the order dated 21.09.2007 would be rendered otiose and meaningless, for the workman would continue receiving a stagnant amount year after year irrespective of statutory revisions in minimum wages.

22. Such an interpretation would defeat the very object of Section 17-B of the Act. Labour welfare legislation, by its very nature, requires purposive interpretation so as to advance the remedy and suppress the mischief sought to be addressed. In *Surendra Kumar Verma v. Central Government Industrial Tribunal*, (1980) 4 SCC 443, the Hon’ble Supreme Court held that while interpreting beneficial labour legislation, courts must avoid a narrow or pedantic approach and instead adopt a construction which furthers the legislative object underlying the enactment.

23. Applying the aforesaid principle, this Court is of the considered view that payment of a static amount for years together, despite periodic upward revision of minimum wages by statutory notifications, would render the protection contemplated under Section 17-B illusory and ineffective.

24. The material placed on record reflects that the Government of NCT of Delhi has revised minimum wages from time to time and, as on April 2025, the applicable minimum wages for an unskilled worker stand notified at ₹18,456/- per month. It is an admitted position that the Petitioner/Management has continued to pay approximately ₹11,426/- per month to the Respondent/Workman. The differential amount payable each month, therefore, constitutes a continuing shortfall in compliance with the order dated



21.09.2007.

25. The submission advanced on behalf of the Petitioner/Management that the Respondent/Workman accepted such payments for several years without protest does not persuade this Court to take a contrary view. The obligation flowing from Section 17-B of the Act is statutory in nature. Mere non-assertion of a statutory right for a period of time does not extinguish the right itself nor validate continued breach of the corresponding statutory obligation.

26. The further contention of the Petitioner/Management that the issue regarding computation of wages and differential amounts is already the subject matter of proceedings in LC No. 44/2024 pending before the learned Labour Court under Section 33-C(2) of the Act also deserves rejection.

27. The proceedings under Section 33-C(2) and the present proceedings arise in distinct and separate spheres. Proceedings under Section 33-C(2) are essentially in the nature of execution proceedings concerning computation and recovery of benefits claimed by a workman. The present Application, however, concerns compliance with an interim order passed by this Court under Section 17-B during the pendency of the Writ Petition. Compliance with orders passed by this Court cannot be made contingent upon or deferred on account of parallel proceedings before a subordinate forum. The pendency of proceedings under Section 33-C(2), therefore, does not absolve the Petitioner/Management of its continuing obligation under the order dated 21.09.2007.

28. In the considered opinion of this Court, the Petitioner/Management has failed to comply with the order dated 21.09.2007 in its true letter and spirit by continuing to pay wages substantially lower than the applicable minimum wages notified from time to time.



29. The next question which arises for consideration is whether such non-compliance ought to result in automatic vacation of the stay order dated 25.07.2005.

30. There can be no quarrel with the proposition that a party seeking equitable relief from a Constitutional Court is equally bound to comply with the conditions subject to which such relief operates. An employer who continues to enjoy the protection of an interim order staying a reinstatement Award cannot be permitted to simultaneously disregard the statutory obligations flowing from Section 17-B of the Act and the orders passed thereunder.

31. At the same time, this Court is also conscious of the fact that the present Writ Petition challenging the Award dated 01.12.2004 remains pending adjudication on merits and raises issues requiring consideration. The power to vacate an interim order, though available, must be exercised in a proportionate and balanced manner, keeping in view the facts and circumstances of each case.

32. This Court is therefore of the view that while the breach on the part of the Petitioner/Management stands established, immediate vacation of the stay order dated 25.07.2005 at this stage would be a disproportionate consequence, particularly when the breach is capable of being remedied by directing payment of the quantified arrears and ensuring future compliance with the mandate of Section 17-B of the Act.

33. The Respondent/Workman has placed on record a detailed month-wise computation chart indicating the differential amount allegedly payable on account of non-payment of revised minimum wages from January 2017 till May 2025. The said computation reflects total arrears amounting to



₹4,82,394/-.

34. Significantly, though the Petitioner/Management has disputed its liability in principle, no detailed counter-computation has been placed on record controverting the calculations furnished by the Respondent/Workman. The Petitioner/Management has neither demonstrated payment at the applicable revised minimum wage rates for the relevant period nor produced any material to establish that the figures relied upon by the Respondent/Workman are erroneous or inflated.

35. In the absence of any cogent rebuttal to the computation furnished by the Respondent/Workman, this Court finds no reason to discard the said computation at this stage, particularly when the figures have been derived on the basis of statutory notifications issued by the Government of NCT of Delhi revising minimum wages from time to time.

36. Accordingly, while this Court is not inclined to vacate the stay order dated 25.07.2005 at this stage, the continuance of the said stay cannot be permitted independent of compliance with the statutory mandate contained in Section 17-B of the Act and the order passed thereunder.

37. Consequently, the present Application is disposed of with the following directions:

- i. The prayer seeking vacation of the stay order dated 25.07.2005 is, for the present, declined;
- ii. The Petitioner/Management is directed to pay to the Respondent/Workman arrears towards differential wages under Section 17-B of the Industrial Disputes Act, quantified at ₹4,82,394/- within a period of six weeks from the date of this order, failing which the said amount shall carry interest at the rate of 9% per annum from



the date of expiry of the aforesaid period till the date of actual realization;

iii. The Petitioner/Management shall continue to pay to the Respondent/Workman, during the pendency of the present Writ Petition, the last drawn wages or the minimum wages as notified by the Government of NCT of Delhi from time to time, whichever is higher, on or before the 7th day of each succeeding month.

38. It is clarified that the observations made herein are confined solely to adjudication of the present Application and shall not be construed as an expression on the merits of the pending Writ Petition or any other proceedings between the parties.

39. The present Application is accordingly disposed of in the aforesaid terms.

**W.P.(C) 11851/2005 & CM APPL. 55588/2024**

40. The parties are directed to file their respective Written Submissions along with the Compilation of Judgments, if not already filed, within a period of four weeks from today, with an advance copy duly served upon the other side.

41. List the matter for final arguments on 3<sup>rd</sup> September 2026.

**SHAIL JAIN  
JUDGE**

**MAY 18, 2026/dg**