



2026:DHC:7625



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on:29.07.2026
Judgment pronounced on:08.09.2026
Judgment uploaded on: 08.09.2026

CNR No. DLHC010767362017

+ **W.P.(C) 1915/2017**

M/S TIRUPATI BUILDINGS & OFFICERS PVT. LTD

.....Petitioner

versus

**AUTHORITY UNDER THE DELHI SHOPS AND
ESTABLISHMENTS ACT, 1954 & ANR Respondents**

Advocates who appeared in this case:

For the Petitioner : Mr. Samar Bansal, Sr. Adv. with Mr. Vijay Kasana, Mr. Chirag Verma, Mr. Vaibhav Sharma, Mr. Vedant Kapur & Ms. Anshika Saxena, Advs.

For the Respondents : Mr. Aryaman Vachher, Adv. for Mr. Sameer Vashisht, SC, Civil, GNCTD for R-1.
Mr. Jitesh Pandey & Mr. Naman Arora, Advs.

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present petition is filed under Article 226 of the Constitution of India assailing order dated 08.02.2016 (hereinafter '**impugned**



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order’) passed by the learned Deputy Labour Commissioner in SE-6/14/DLC/SWD/1439-41.

2. Briefly stated, Respondent No.2 filed an application under Section 21(2) of the Delhi Shops and Establishments Act, (hereinafter, ‘**the Act**’) before the learned Deputy Labour Commissioner, who was then exercising jurisdiction as the Authority appointed under Section 21(1) of the Act.

3. Respondent No.2, in the aforesaid claim application alleged that he had not been paid certain outstanding earned wages in respect of his association with the petitioner, commencing from 03.01.2013 to 13.07.2013. Respondent No.2 alleged that while the total amount payable to him for the said period was of ₹12,69,156/-, the petitioner had only paid him ₹5,67,126/-, thus, claiming outstanding earned wages to the tune of 7,01,030/-.

4. Thereafter, arguments were heard on behalf of the parties by the learned Deputy Labour Commissioner, being the appointed Authority under the Act and the matter was reserved on 10.04.2015.

5. Pursuant to the order being reserved, the concerned Deputy Labour Commissioner was transferred with immediate effect, on 30.07.2015, from the South West District to the Delhi Labour Welfare Board of the Department of Labour, Government of NCT of Delhi.

6. Thereafter, the concerned Deputy Labour Commissioner was further transferred on 01.10.2015 to the Delhi Building and Other Construction Welfare Board of the Department of Labour, Government



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of NCT of Delhi and while being posted there, the learned Deputy Labour Commissioner passed the impugned order.

7. The learned Deputy Labour Commissioner *vide* the impugned order directed the petitioner to pay ₹7,01,030/- to Respondent No.2 on account of unpaid wages along with a lump sum compensation of ₹3,00,000/- and ₹10,000 towards litigation expenses.

8. Aggrieved thereby, the present petition has been filed.

9. As recorded in the order dated 29.07.2026, the petitioner has confined the present petition only to the issue of jurisdiction of the learned Deputy Labour Commissioner in passing the impugned order, despite having been transferred.

Submissions on behalf of the parties

10. The learned senior counsel appearing on behalf of the petitioner submitted that the impugned order has been passed without jurisdiction as the learned Deputy Labour Commissioner who passed the impugned order ceased to exercise jurisdiction as the Authority appointed under Section 21(1) of the Act in respect of the South West District, Delhi pursuant to his transfer dated 30.07.2015.

11. He further submitted that with the transfer, the Deputy Labour Commissioner, became *functus-officio* and ceases to have jurisdiction to decide the matters, which were pending before him. Reliance in this regard has been placed on the judgment in ***Nainesh Sanghvi and Ors. v. State of Maharashtra*** : 2025 SCC OnLine Bom 4775.

12. He submitted that the Notification No. F 1/2 (7)/89-LC/Eatt.



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Ii/658 dated 10.08.1998, clearly specified that it is only the Labour Commissioner of Delhi, who has jurisdiction over the whole National Capital Territory of Delhi, whereas, the Joint Labour Commissioner of Delhi and the Deputy Labour Commissioner of Delhi, exercise jurisdiction over the respective Districts.

13. Hence, it is prayed that the impugned order be set aside and the present matter be remanded back to the appropriate Authority, to be decided afresh.

14. *Per contra*, learned counsel appearing on behalf of Respondent No.1 vehemently opposed the petition. It was submitted that the Authority notified under Section 21(1) of the Act continues to hold such authority for the entire National Capital Territory of Delhi unless specifically denotified, and that a mere administrative transfer from one district does not divest such Authority of the jurisdiction conferred upon him under the notification. It was contended that the learned Deputy Labour Commissioner, having been duly notified as an Authority under the Act, remained fully competent to pass the impugned order dated 08.02.2016. It was further submitted that the notification appointing Authorities under the Act does not prescribe district-wise or area-wise appointments, and no separate notifications conferring territorial jurisdiction upon individual Authorities have ever been issued. On this basis, it was urged that the present petition deserves dismissal.

15. Learned counsel appearing on behalf of Respondent No.2 adopted the submissions advanced on behalf of Respondent No.1. In



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addition, it was submitted that where an adjudicating authority has concluded the hearing, recorded the evidence, heard final arguments and reserved the matter for orders, a subsequent administrative transfer does not divest such authority of the power to pronounce the reserved order. Reliance in this regard has been placed on the following judgments:

- i. ***Karan and Ors. v. State NCT of Delhi* : 2020 SCC OnLine Del 2728,**
 - ii. ***B.D. Sharma v. State of NCT of Delhi and Ors.* : 2025 SCC OnLine Del 10994,**
 - iii. ***Narinder Khullar v. Param Dev Chopra* : 2026 SCC OnLine Del 1349,**
 - iv. ***Parvesh Mann v. State NCT of Delhi* : 2026 SCC OnLine Del 61,**
16. He further placed reliance upon the judgment in ***Pratap Kishore and Ors. v. Gyanendranath* : SCC OnLine Ori 4** to urge that the adjudication of a matter is made by the judge who hears the case and records the reasons for the decision and his transfer from the office in which the matter was heard does not divest him of the authority to prepare and finalise the judgment.
17. He further submitted that the *de facto* doctrine validates judicial acts, orders and decisions rendered by a person holding judicial office under colour of lawful authority notwithstanding any subsequent defect discovered in the legality of his appointment. Such acts, it was



contended, remain valid and enforceable and cannot be collaterally challenged in proceedings between litigating parties merely because the appointment of the adjudicating authority is subsequently held to be invalid. Reliance in this regard has been placed on the following judgments:

- i. ***Gokaraju Rangaraju and Ors. State of Andhra Pradesh***
: 1981 3 SCC 132
- ii. ***S.K. Sinha and Ors. v. Asstt. Collector of Customs and Ors.*** : 1985 SCC OnLine Del 131

18. He further submitted that the reliance placed by the petitioner on the judgment in *Nainesh Sanghvi* (*supra*) is misplaced. It was contended that the doctrine of *functus officio* comes into operation only upon the pronouncement of the final judgment, decree or order, and not merely upon the administrative transfer of the adjudicating authority. Accordingly, it was argued that the transfer of the Deputy Labour Commissioner did not denude him of the jurisdiction to pronounce an order in a matter that had already been heard and reserved for orders.

19. I have heard the counsels and perused the record.

Analysis

20. At the outset, it is necessary to note that the scope of interference under Articles 226 and 227 of the Constitution of India with an Award passed by the Authority is limited. This Court does not sit as a Court of appeal over findings of fact rendered by the Authority. Interference is warranted only where the findings are perverse, based on no evidence,



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suffer from patent illegality, or disclose a jurisdictional error.

21. In the present case, as recorded in the order dated 29.07.2026, the petitioner has confined the challenge solely to the jurisdiction of the learned Deputy Labour Commissioner to pronounce the impugned order after his transfer.

22. In the facts of the present case, the learned Deputy Labour Commissioner, while exercising jurisdiction as the Authority appointed under Section 21(1) of the Act, heard the parties and reserved the matter for orders on 10.04.2015. Before the reserved order could be pronounced, he was transferred from the office of Deputy Labour Commissioner, South West District, vide order dated 30.07.2015 and was thereafter posted first in the Delhi Labour Welfare Board and subsequently in the Delhi Building and Other Construction Workers Welfare Board. It is not in dispute that upon his transfer another Deputy Labour Commissioner assumed charge of the South West District. Despite the aforesaid transfer, the erstwhile Deputy Labour Commissioner proceeded to pronounce the impugned order on 08.02.2016 while holding an entirely different assignment.

23. It is relevant to note that Section 21(1) of the Act provides that the Government may appoint any Commissioner for Workmen's Compensation Act or other officer with experience as a Judge of a Civil Court or as a Stipendiary Magistrate to be the authority to hear and decide all claims arising out of delayed payment or non-payment of earned wages of an employee employed in any establishment. Section



21 of the Act reads as under:

“21. Claim related to wages.—(1) The Government may by notification in the Official Gazette, appoint any Commissioner for Workmen's Compensation Act or other officer with experience as a Judge of a Civil Court or as a Stipendiary Magistrate to be the authority to hear and decide all claims arising out of delayed payment or non-payment of earned wages of an employee employed in any establishment.

(2) Application for any such claim may be made to the authority appointed under sub-section (1) by the employee himself 23[or any Official of a registered trade union authorised in writing to act on his behalf] or any legal practitioner or the Chief Inspector for a direction under sub-section (3):

Provided that every such application should be presented within 24[one year] from the date the claim for such wages has become payable under this Act:

Provided further that an application may be admitted after the said period of 25[one year] when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer, or give them an opportunity of being heard and after such further enquiry, if any, as it may consider necessary may without prejudice to any other penalty to which employer may be liable under this Act, direct the payment to the employee of the amount due to him together with the payment of such compensation as the authority may think fit, not exceeding half the amount so due or Rs. 100, whichever is less.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, it may direct that a penalty not exceeding hundred rupees be paid to the employer by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered:

(a) if the authority is a magistrate, by the authority as if it



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*was a fine imposed by the authority as a magistrate, or
(b) if the authority is not a magistrate, by any magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such magistrate.*

(6) Every direction of the authority under this section shall be final.

(7) Every authority appointed under sub-section (1) shall have all powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908) for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a civil court for all the purposes of Section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898)."

24. The principal contention of Respondent No.1 is that an Authority notified under Section 21(1) of the Act continues to hold such authority for the entire National Capital Territory of Delhi unless specifically denotified, and that a mere administrative transfer from one district does not divest such Authority of the jurisdiction conferred upon him under the notification. In support of the said submission, reliance has been placed upon Notification No. F.1/2(7)/89-LC/Estt.-II/658 dated 10.08.1998.

25. This submission, however, cannot be accepted. A plain reading of the aforesaid notification demonstrates that a clear distinction has been drawn between the Labour Commissioner and the Deputy Labour Commissioners. While the Labour Commissioner, Delhi is appointed as the Authority for the whole of the National Capital Territory of Delhi, the Deputy Labour Commissioners are appointed as Authorities only in respect of the districts under their respective charge. Thus, the notification itself does not envisage a Deputy Labour Commissioner



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exercising jurisdiction over the entire National Capital Territory.

26. Once the concerned Deputy Labour Commissioner was transferred from South West District on 30.07.2015 and another officer assumed charge, the statutory jurisdiction vested in the office of the Deputy Labour Commissioner for the said district stood transferred to the successor officer. In the absence of any statutory provision, notification, or administrative order preserving the authority of the transferred officer in respect of matters earlier dealt with by him, this Court is unable to accept the contention that he continued to exercise jurisdiction under Section 21(1) of the Act merely by virtue of continuing in the Labour Department.

27. The Authority appointed under the act does not derive power from the office held by an individual officer but from the statute and the order conferring such authority. Once that authority is withdrawn or the officer is replaced, the source of jurisdiction ceases to exist. The appointment of a successor officer is therefore not a mere administrative arrangement; it results in the cessation of authority of the outgoing officer and the vesting of jurisdiction in the successor. Consequently, it is the successor officer who must proceed with the matter, consider the record, afford hearing if required, and arrive at a decision in accordance with law.

28. The maxim *cessante ratione legis cessat ipsa lex* applies in the present context. The authority to exercise statutory power exists only so long as the foundation for such exercise continues. Once the basis of the



authority disappears, the authority itself cannot survive. This principle ensures that statutory powers are exercised strictly within the limits prescribed by law and prevents the continuation of jurisdiction after the legal foundation for its exercise has ceased.

29. The doctrine of *functus officio* also operates in the present case. Upon appointment of a new officer as the appointed authority in place of the original officer, the latter ceased to possess jurisdiction to proceed further.

30. In the present context, even where the proceedings have reached the stage of final consideration and only the formal act of recording conclusions remains, the successor officer ought to have assumed the responsibility of examining the material on record and complete the proceedings in accordance with law. The final decision ought to have emanated from an authority validly vested with jurisdiction at the time of such decision. Reliance in this regard is placed upon the judgment of the Bombay High Court in ***Nainesh Sanghvi and Ors. v. State of Maharashtra***, (supra), which was although rendered in the context of proceedings under the Maharashtra Cooperative Societies Act, the principles enunciated therein are of general application. The relevant extract of the same is reproduced hereinbelow:

“21. In essence, an authorised officer derives his power from the Registrar's order. When that power is withdrawn and another officer is appointed, the earlier officer cannot continue with the proceedings or submit the report. His lack of knowledge of the replacement order does not change this position. Allowing him to submit the report would mean allowing a person without jurisdiction to complete a quasi judicial act, which the law does not permit. The



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successor authorised officer must take charge, examine the record, give further hearing if needed, and then submit his report.

22. The successor officer does not have to start the proceedings afresh. He receives the existing record, including evidence and documents. He shall grant a further oral hearing based on the material already on record. What is necessary is that the final report must be submitted by an officer who holds valid authority on the date of submission.

23. In the present case, Respondent No. 3 passed an order on 14 February 2022 appointing a new Authorised Officer. From that date, Respondent No. 6 could not act under Section 88. The report prepared on 28 February 2022 and submitted on 1 March 2022 was without authority. A report that is without authority cannot form the foundation for further proceedings. The recovery certificate under Section 98 is based entirely on such report. The certificate therefore cannot stand.

24. The contention that the substituted officer was unaware of the order cannot restore his authority. The law in this field is settled. The existence of an order, and not the knowledge of the officer, determines the cessation of power. Administrative acts take effect when they are made by the competent authority.”

31. Thus, the authority exercised by the learned Deputy Labour Commissioner under Section 21(1) of the Act was attached to the office held by him as the Deputy Labour Commissioner having jurisdiction over the concerned district. Upon his transfer and replacement by another officer, the jurisdiction vested in that office stood transferred to the successor officer.

32. Respondent No.2 has, however, contended that where an adjudicating authority has concluded the hearing, recorded the evidence, heard final arguments and reserved the matter for orders, a subsequent administrative transfer does not divest such authority of the power to pronounce the reserved order. Reliance in this regard has been placed upon ***Karan and Ors. v. State (NCT of Delhi)*** (*supra*), ***B.D.***



Sharma v. State (NCT of Delhi) and Ors. (supra), Narinder Khullar v. Param Dev Chopra (supra), Parvesh Mann v. State (NCT of Delhi) (supra).

33. In the considered opinion of this Court, the reliance placed upon the aforesaid judgments is misplaced.

34. Firstly, in the decision of the Full Bench of the Delhi High Court in ***Karan & Ors. v. State (NCT of Delhi)*** (supra), the concerned Additional Sessions Judge had reserved judgment in a criminal case while posted at Karkardooma Courts. Before the judgment could be pronounced, the judicial officer was transferred to Rohini Courts pursuant to the transfer order dated 13.03.2020. The said transfer order, however, specifically contained **Note 2**, which authorised transferred judicial officers to pronounce judgments/orders in matters already reserved by them within a stipulated period notwithstanding their transfer. In the aforesaid factual backdrop, the Full Bench framed the following question of law:

“2. An important question of law has arisen for consideration before this Court with respect to the validity of Note 2 appended to the transfer order dated 13th March, 2020 and the correctness of the findings of Jitender's case relating to Note 2 in respect of similar transfer orders of the High Court. Note 2 empowered the transferred judicial officers to pronounce the judgments/orders in respect of the reserved matters within a period of 2-3 weeks after transfer took effect, notwithstanding such posting/transfer. Note 2 appended to the Transfer Order is reproduced herein under:

“Note 2. The judicial officers under transfer shall notify the cases in which they had reserved judgments/orders before relinquishing the charge of the court in terms of the posting/transfer order. The judicial officers shall pronounce judgments/orders in all such matters on the date fixed or maximum within a period of 2-3 weeks



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thereof, notwithstanding the posting/transfer. Date of pronouncement shall be notified in the cause list of the court to which the matter pertains as also of the court to which the judicial officer has been transferred and on the website.”

(Emphasis Supplied)

35. The Full Bench answered the aforesaid question by upholding the validity of Note 2 appended to the transfer order and held that the High Court was competent to issue such an administrative direction in exercise of its powers of superintendence over the subordinate judiciary. The Court held that the transferred judicial officer was, therefore, competent to pronounce the judgment reserved prior to transfer in terms of the express authorisation contained in Note 2. The Full Bench further observed that, even otherwise, the challenge could not succeed in view of the curative provisions contained in Sections 462 to 465 of the Code of Criminal Procedure, and the de facto doctrine. The relevant observations are reproduced hereinbelow:

“151. Article 227 of the Constitution empowers the High Court with the superintendence over all Courts and Tribunals throughout its territory. The power of superintendence under Article 227 includes the administrative as well as judicial superintendence i.e. the High Court can transfer a case by exercising its administrative power of superintendence or its judicial power of superintendence. Article 235 of the Constitution empowers the High Court with respect to the posting and promotion of Judicial Officers.

152. Code of Criminal Procedure vests in the High Court plenary powers relating to the superintendence over the subordinate Courts including the appointment, posting, promotion and transfer of the judicial officers. Section 194 empowers the High Court to direct a Sessions Judge to try particular cases. Section 407 empowers the High Court to transfer the cases on judicial side and Section 483 empowers the High Court to transfer the cases on the administrative side. Section 482 vests inherent power in the High Court to make such orders as may be necessary to give effect to any order under



this Code or to prevent abuse of process of any Court or otherwise to secure the ends of justice. Section 483 empowers the High Court to exercise superintendence over the subordinate judiciary. Rule 3 of Part B of Chapter 26 of Delhi High Court Rules empowers the High Court to transfer the cases on administrative grounds. To summarize, the High Court has both judicial as well as administrative power to regulate administration of justice.

153. Note 2 appended to the transfer order dated 13th March, 2020 issued by the High Court in exercising the aforesaid powers under the Constitution and the Code of Criminal Procedure is declared to be legal and valid. The contrary finding of the Division Bench relating to Note 2 in Jitender's case (supra) is overruled.

154. The Id. Addl. Sessions Judge was duly empowered to pronounce the judgment by virtue of Note 2 appended to the transfer order dated 13th March, 2020. The pronouncement of the judgment by Id. Addl. Sessions Judge is in terms of Section 353 CrPC. The delay in pronouncing the judgment is a mere irregularity and is hereby condoned.

155. Notwithstanding validity of Note 2, the impugned judgment is also protected by Sections 462 and 465 CrPC and the de facto doctrine."

(emphasis supplied)

36. Secondly, in the judgment in **B.D. Sharma** (supra) a coordinate bench of this Court had observed that whenever a transfer list of Judicial Officers is issued by this Court, a Note is appended to the said transfer order which stipulates that the transferred Judicial Officer shall pronounce the judgments/orders which had been reserved prior to the transfer, within a period of 2-3 weeks from the date of transfer. Thus, it was observed that the Presiding Officer who had reserved an order or judgment in a case, has to pronounce the same even after being transferred. The relevant observations are reproduced hereinbelow:

"24. This Court notes that whenever a transfer list of judicial officer is issued, it is circulated to all the judicial officers who are affected by this transfer as well as others. The notes appended to the transfer list also mention the following:



“Note (s):—

1. The judicial officers shall be under the control of the Principal District & Sessions Judge of the district, to which they have been allocated.

2. The judicial officers under transfer shall notify the cases in which they had reserved judgments/orders before relinquishing the charge of the court in terms of the posting/transfer order. The judicial officers shall pronounce judgments/orders in all such matters on the date fixed or maximum within a period of 2-3 weeks thereof, notwithstanding the posting/transfer. Date of pronouncement shall be notified in the cause list of the court to which the matter pertains as also of the court to which the judicial officer has been transferred and on the website...”

25. Thus, the Note (2) appended to the transfer list clearly stipulates that judicial officers under transfer are required to notify the cases in which judgments or orders had been reserved prior to relinquishing charge in accordance with the transfer/posting order. It further mandates that such judicial officers shall pronounce judgments/orders in all such matters on the date fixed or, at the latest, within 2-3 weeks, irrespective of their new posting. The date of pronouncement must be reflected in the cause list of both the court where the matter is pending and the court to which the judicial officer has been transferred, as well as on the official website. This directive is binding not only upon the transferring officer but also on the successor court, which is expected to adhere to and facilitate compliance with the same, as the note forms part of the official transfer communication received by them.

26. There is, therefore, no confusion that the Presiding Officer who has reserved an order or judgment in a case has to pronounce the order or the judgment himself even after he is transferred. The successor Court must not be listed for re-hearing as per the mandate of the note appended to each transfer list.

27. Therefore, in this case, both the judicial officers committed an error, the Presiding Officer who had reserved the judgment was dutybound to pronounce the judgment as per mandate of the note appended to the transfer list and the successor court was dutybound who have not listed it for re-hearing and should have sent it to the District Judge concerned for being placed before the Presiding Officer who had reserved the judgment. Needless to say, the transferred and the Successor Presiding Officer both had been transferred by virtue of the same transfer list and, therefore, had knowledge as to how they were to deal with a case wherein the



judgment stood reserved.

28. Henceforth, it is hereby directed that in all cases where a Presiding Officer is transferred and has reserved judgments/orders prior to relinquishing charge, the following protocol shall be mandatorily followed:

A. The Presiding Officer being transferred shall prepare a comprehensive list of all cases in which orders or judgments have been reserved by them but not yet pronounced.

B. This list shall be submitted to the concerned District Judge before the date of relinquishing charge.

C. The Presiding Officer shall remain dutybound to pronounce judgments/orders in all such matters on the date already fixed or, at the latest, within 2-3 weeks from the date of their transfer, as noted above, and in accordance with the notes appended to the transfer list.

D. The District Judge of the concerned district shall ensure compliance with the above directions and facilitate the pronouncement of judgments/orders by the transferred Presiding Officer in accordance with the mandate of the transfer list.

29. In these circumstances, the Learned Registrar General of this Court is directed to forward a copy of this judgment to all the District and Sessions Judges of Delhi, who shall ensure its circulation among all the Judicial Officers posted in their respective jurisdictions. A copy of the judgment shall also be forwarded to the Director (Academics), Delhi Judicial Academy, with a direction to take note of its contents and to ensure that the guidelines and observations contained herein are appropriately included in the refresher courses and training modules for Judicial Officers undergoing training at the Academy.”

(emphasis supplied)

37. Thirdly, the judgment in **Narinder Khullar v. Param Dev Chopra** (*supra*), the learned predecessor Judge had reserved the matter for judgment prior to being transferred. The transfer order issued by this Court specifically contained a Note (2), which provided that the Judicial Officers under transfer shall pronounce judgments/orders in matters where the same had been reserved prior to relinquishing charge, within



a period of 2-3 weeks from the date fixed, notwithstanding their transfer. Thus, in view of the specific mandate contained in the transfer order, it was observed that the learned predecessor Judge was required to pronounce the judgment and could not have released the matter from the stage of judgment. The relevant observations are reproduced hereinbelow:

“6. It is also pertinent to note that the learned predecessor Judge was transferred vide transfer order dated 17-10-2025, issued by learned Registrar General of this Court. The relevant portion thereof is reproduced as under:

“HIGH COURT OF DELHI: NEW DELHI

No. 41/DHC/Gaz/G-7/VI.E.2(a)/2025

Dated: 17-10-2025

ORDER

*Hon'ble the Chief Justice and Hon'ble Judges of this Court have been pleased to make the following postings/transfers in the Delhi judicial Service **with immediate effect**:—*

S. No.	Name of officer (Mr./Ms.)	From	To	District to which allocated	Remarks
6.	Mohit Sharma	SCJ-cum-RC, South-East, Saket	CJM, Shahdara, KKD	Shahdara	In vacant court

Note(s):-

- 1. The judicial officers shall be under the control of the principal District & Sessions Judge of the district, to which they have been allocated.*
- 2. The judicial officers under transfer shall notify the cases in which they had reserved judgments/orders before relinquishing the charge of the court in terms of the posting/transfer order. The judicial officers shall pronounce judgments/orders in all such matters on the date fixed or maximum within a period of 2-3 weeks thereof, notwithstanding the posting/transfer. Date of pronouncement shall be notified in the cause list of the court to which the matter pertains as also of the court to which the judicial officer has been transferred and on the website.*



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7. A Co-ordinate Bench of this Court in CRL.M.C. 9064/2025 titled *Parvesh Mann @ Sagar Mann v. State (NCT of Delhi)*, decided on 5-1- 2026, has dealt with an issue similar to that as involved in the present petition and upon placing reliance on the judgment in *B.D. Sharma v. State of NCT of Delhi*, reportable as 2025:DHC:5607 has held as follows: “21. Once final arguments had been fully heard, the learned Predecessor Judge was bound to pronounce the judgment. Directing a rehearing of arguments in such circumstances not only defeats the mandate of the transfer orders and the law laid down by this Court, but also results in avoidable delay in adjudication and places an unnecessary burden upon the learned Successor Judge, who is compelled to rehear a matter that has already been fully argued.”

8. From the record, it is evident that final arguments in the case were heard on 20-8-2025 and the case remained reserved for pronouncement of judgment for about four months with the learned predecessor judge. The observation of the learned predecessor judge in the impugned order dated 3-1-2026, to the effect that further arguments were required, is not justified as the case remained reserved for judgment for a considerable period of time. The release of the case from the stage of final judgment and sending it back to the learned successor judge for 12-1-2026 is unjustified as it is contrary to the transfer order as well as the settled principles of law as discussed above.

9. In view of the aforesaid discussion, this Court is of the opinion that the learned predecessor judge ought to pronounce the judgment in the said case. Accordingly, the impugned order dated 3-1-2026, whereby the case was released from the stage of judgment and sent back to the learned successor court for further proceedings, is set aside.

The case bearing no. RC ARC 5135/16 is directed to be transferred from the court of Senior Civil Judge-cum-Rent Controller, South East, Saket Courts, New Delhi, to the court of learned predecessor judge, presently posted as CJM, Shahdara, Karkardooma Courts, Delhi for the purpose of pronouncement of judgment.”

(emphasis supplied)

38. Fourthly, the judgment in *Parvesh Mann* (*supra*) was also delivered in the context of the predecessor judge having been



transferred pursuant to a transfer order issued by the administrative side of this Court with a similar note appended in the transfer order. In that context, a coordinate bench of this Court held that the predecessor judge was duty bound to pronounce the judgment he had reserved prior to the transfer order. The relevant observations are reproduced hereinbelow:

“26. This Court is also conscious of the practical and constitutional implications of directing a de-novo rehearing of final arguments at this stage. Re-hearing a matter of this nature, involving multiple accused and a lengthy trial under a special statute, would inevitably consume substantial time. The petitioner has already been in judicial custody for more than five years. After the conclusion of trial, the accused waited for another five months for the pronouncement of judgment. For an accused, especially one in custody, the period after the judgment gets reserved, each day is spent in anxious anticipation of the outcome. To now compel the accused to undergo another round of final arguments before a new Judge would amount to prolonging uncertainty and, in effect, would result in serious prejudice.

27. The courts must remain mindful of the human element inherent in criminal adjudication. While procedural fairness is undoubtedly important, it cannot be carried to an extent that defeats substantive justice. In the present case, directing a rehearing would not further fairness; instead, it would cause avoidable delay and hardship to the accused and undermine the finality of a trial that has already concluded.

28. Equally important is the institutional dimension of the issue. The directions contained in Note 2 appended to the transfer order dated 18-11-2025, and reiterated by the subsequent order issued on the directions of the Hon'ble Chief Justice of this Court, were neither casual nor optional. They were issued precisely to avoid situations such as the present one, where reserved judgments remain unpronounced due to transfers. Permitting a departure from these directions on the ground of belatedly perceived “clarifications” would, in effect, dilute their binding nature and open the door to circumvention. Such an approach, if accepted, may create a precedent where matters in which judgments have already been reserved are, after transfer of the Presiding Officer, sent back to the successor court on tenuous grounds, thereby unsettling the settled procedure governing pronouncement of reserved judgments and



introducing avoidable uncertainty into the judicial process.

29. It is again clarified that this is not a case where, immediately upon reserving judgment, the learned Predecessor Judge found it necessary to seek any clarification and acted accordingly. On the contrary, the matter remained reserved for nearly five months, despite the settled legal position that judgments ought to be pronounced immediately or not later than six weeks, as held by the Supreme Court, and as per BNSS, within 30 to 45 days. During this entire period, the case was repeatedly listed only for pronouncement of judgment, and a specific date was eventually fixed after directing the physical production of the accused. In such circumstances, the later observation that further clarification was required cannot justify transferring the matter to the learned Successor Judge and directing rehearing of final arguments, particularly when no such requirement was indicated during the extended period for which the judgment remained reserved and the matter was repeatedly listed solely for pronouncement.

30. Jurisprudence on speedy justice makes it clear that avoidable and unexplained delay, when accompanied by demonstrable prejudice, renders the process arbitrary and unconstitutional. Justice delayed is justice denied, and any attempt to prolong proceedings by reopening arguments after the matter stood closed and reserved for pronouncement of judgment is liable to be held vitiated in law.

31. Therefore, in the present case, sending back the case to the learned Successor Judge in December 2025, when the final arguments were concluded in early July 2025 and the matter remained reserved for pronouncement of judgment for five months with the learned Predecessor Judge, would be manifestly unjustified and contrary to settled legal principles, as well as destructive of the right of an accused to a speedy trial.”

(emphasis supplied)

39. The aforesaid decisions are clearly distinguishable to the facts of the present case. The foundation of the said decisions was the existence of an express administrative direction contained in Note 2 preserving the authority of the transferred judicial officer to pronounce judgments reserved prior to transfer. No analogous direction exists in the present case. No material has been placed before this Court to show that the



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transfer order dated 30.07.2015, or any subsequent order issued by the competent authority, authorised the transferred Deputy Labour Commissioner to continue exercising jurisdiction under Section 21 of the Act after relinquishing charge. Consequently, the ratio of the said judgments does not advance the case of the respondent. Further, the present decision is also not supported by the curative provisions of Sections 462/465 of the CrPC.

40. Equally untenable is the reliance placed by Respondent No.2 upon the *de facto* doctrine and the judgments in ***Gokaraju Rangaraju and Ors. State of Andhra Pradesh*** (*supra*) and ***S.K. Sinha and Ors. v. Asstt. Collector of Customs and Ors.*** (*supra*). It has been contended that the judicial acts of a person holding office under colour of lawful authority remain valid notwithstanding any defect subsequently discovered in his appointment.

41. The *de facto* doctrine is attracted where the legality of the appointment or title of the office-holder is subsequently questioned, so as to protect acts performed by such officer in the interest of certainty and public policy. The present case does not involve any challenge to the appointment of the learned Deputy Labour Commissioner or to his competence while he validly held the office. The challenge is founded upon the absence of jurisdiction on the date the impugned order was pronounced, after he had admittedly ceased to hold the office which alone conferred upon him the statutory authority to adjudicate claims pertaining to the Act in the South West District. The doctrine cannot be



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invoked to validate an order passed by an authority who, on the date of passing such order, no longer possessed the jurisdiction to do so.

42. The judgment in ***Pratap Kishore and Ors. v. Gyanendranath (supra)*** also does not further the case of the respondents as the same pertained to substantially different factual circumstances. In that matter, the Orissa High Court was concerned with the question as to whether the successor judge could hear an appeal after he had drawn the decree on the basis of the judgment of the predecessor judge, which the successor judge had himself pronounced in terms of Order 20 Rule 2 of the Civil Procedure Code, 1908 (Power to pronounce judgment written by Judge's predecessor). Pertinently, in this case, the judgment was pronounced by the concerned deputy Labour Commissioner himself and not by the succeeding officer. The observations made by the court *qua* competence of the successor judge to pass a judgment written by his predecessor, which was found to encompass any officer who had been transferred as well, cannot be used to legitimise the concerned Deputy Labour Commissioner pronouncing a judgment as the appointed Authority under the act, after having been transferred and replaced.

43. Accordingly, this Court is of the considered opinion that the impugned has been passed by an officer who, upon his transfer from the post of the appointed Authority under the Act, ceased to exercise jurisdiction to adjudicate claims under Section 21 of the Act pertaining to the South West District, and thus could not have decided and



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pronounced the impugned order on 08.02.2016. The impugned order, therefore, cannot be sustained and is liable to be set aside.

44. Consequently, the present petition is allowed, the impugned order is set aside. The matter is remanded to the competent Authority having jurisdiction under Section 21 of the Delhi Shops and Establishments Act, 1954 for fresh adjudication in accordance with law.

45. Having regard to the fact that the proceedings arise out of a claim instituted more than a decade ago, the competent Authority is directed to endeavour to dispose of the matter expeditiously and preferably within a period of three months from the date of this order.

46. A copy of this order be sent to the concerned Authority for necessary compliance and fixing a date for further proceedings.

AMIT MAHAJAN, J

SEPTEMBER 8, 2026

“SK”