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

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Date of Decision: 06.08.2026# **CNR No. DLHC010194412023**

+ W.P.(C) 6814/2023, CM APPL.-26576/2023

M/S KK ENGINEERING WORKS

.....Petitioner

Through: Mr.Yogesh Maini and Mr.Lalit Maini,
Advocates

versus

UMAPATI

.....Respondent

Through: Mr. Ankit Dwivedi, Advocate

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CNR No. DLHC010196562023

+ W.P.(C) 6910/2023, CM APPL.- 26924/2023

MS VIJAY PUMP SALES AND SERVICES

.....Petitioner

Through: Mr.Yogesh Maini and Mr.Lalit Maini,
Advocates

versus

UMAPATI

.....Respondent

Through: Mr. Ankit Dwivedi, Advocate

CORAM:**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI****JUDGMENT (ORAL)**

CM APPL.-46142/2024 (delay in filing counter affidavit) in W.P.(C) 6814/2023, CM APPL.-53860/2024 (delay in filing counter affidavit) in W.P.(C) 6910/2023, CM APPL.-53861/2024 (delay in re-filing the application) in W.P.(C) 6910/2023

1. The present applications have been filed by the respondent seeking condonation of delay in filing the counter affidavits and, in one of the matters, further delay in re-filing the application after removal of objections.



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2. Learned counsel for the respondent submits that the delay occurred on account of the respondent having to travel to his native village on account of family functions and thereafter due to a bereavement in the family. It is further submitted that the delay was also occasioned due to inadvertence on the part of the counsel, further it is submitted that the delay is neither intentional nor deliberate and that no prejudice would be caused to the petitioners if the counter affidavits are taken on record.

3. In the present case, the explanation furnished by the respondent is found to be *bona fide*. Accordingly, in the interest of justice, the delay in filing the counter affidavits, as well as the delay in re-filing the concerned application, is condoned.

4. The applications stand disposed of.

W.P.(C) 6814/2023 & W.P.(C) 6910/2023

1. By way of the present common order, the above-captioned writ petitions are being disposed of together, as they arise out of the same impugned Award dated 02.11.2022 passed by the learned Presiding Officer, Labour Court-IX, Rouse Avenue District Courts, New Delhi in LID No.135/2018, titled *Umapati v. M/s K.K. Engineering Works & Ors.* W.P.(C) 6814/2023 has been preferred by M/s K.K. Engineering Works, whereas W.P.(C) 6910/2023 has been preferred by M/s Vijay Pump Sales and Services. Since both petitions arise from the same proceedings and challenge the same Award, they are being considered together for convenience and are hereinafter referred to as the first petition and the second petition, respectively.

2. At the outset, it may be noted that in the first petition, the original respondent No.1, i.e. Government of NCT of Delhi, was deleted from the



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array of parties vide order dated 19.05.2023. Similarly, in the second petition, the Government of NCT of Delhi was deleted from the array of parties vide order dated 26.05.2023 and *Umapati* remained the sole respondent.

3. The dispute before the learned Labour Court emanated from the claim of the respondent/workman that he had been working with M/s Vijay Pump Sales and Services since 02.06.2006 and that, in or around the year 2011, his services were transferred to M/s K.K. Engineering Works. According to the workman, after he demanded the legal and service benefits due to him, his services were stopped during the period from 01.12.2015 to 31.12.2015 and he was thereafter illegally terminated on 01.01.2016 without issuance of any show-cause notice or conduct of any enquiry. The workman consequently raised an industrial dispute seeking appropriate reliefs arising from the alleged illegal termination.

4. The learned Labour Court, after considering the pleadings and evidence led by the parties, framed, *inter alia*, the issue whether an employer-employee relationship existed between the workman and the management and whether his services had been illegally and/or unjustifiably terminated.

5. On appreciation of the evidence, the learned Labour Court returned a finding in favour of the workman on the issue of employer-employee relationship. In particular, reliance was placed upon the gate pass/documentary material produced by the workman, including Ex. WW1/8 and Ex. MW2/X1, as well as the other evidence led before the Court. The learned Labour Court found that the workman had established his employment with M/s K.K. Engineering Works and that the material on



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record supported the conclusion that his services had been brought to an end without compliance with the mandatory requirements of Section 25F of the Industrial Disputes Act, 1947. The learned Labour Court further considered the period of service, the nature of the employment and the circumstances obtaining in the case and, instead of directing reinstatement, awarded lump-sum compensation of Rs.2,00,000/-. The said amount was directed to carry simple interest @ 6% per annum from the date of publication of the Award till realization. A further sum of Rs.20,000/- was awarded towards litigation costs.

6. Learned counsel for the petitioner in W.P.(C) 6814/2023 has primarily challenged the finding of the learned Labour Court regarding the existence of an employer-employee relationship between the petitioner and the respondent. It is contended that the material relied upon by the respondent, including the gate passes, did not establish such relationship.

7. In W.P.(C) 6910/2023, learned counsel has contended that the respondent was not in the employment of the petitioner at the relevant time and that the learned Labour Court failed to appreciate the distinction between the two managements.

8. *Per contra*, learned counsel appearing for the respondent/workman supports the impugned Award. It is submitted that the learned Labour Court considered the pleadings and evidence of both sides and, after appreciation of the material placed on record, returned a categorical finding regarding the existence of an employer-employee relationship and the illegal termination of the respondent's services. It is contended that the petitioners are, in substance, seeking a re-appreciation of the evidence led before the learned Labour Court, which is impermissible in exercise of the writ jurisdiction of



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this Court. It is further submitted that the respondent had placed sufficient material before the learned Labour Court to establish his employment and that the documentary evidence, including the gate passes, was duly considered along

9. I have heard learned counsel for the parties and perused the material placed on record, including the pleadings, evidence and documents before the learned Labour Court as well as the impugned Award.

10. Before examining the individual contentions, it is necessary to bear in mind the limited scope of interference available to this Court in proceedings under Article 226/227 of the Constitution. The jurisdiction exercised by this Court over an award of a Labour Court is supervisory and not appellate. The Court does not ordinarily re-appreciate the evidence or substitute its own view for that of the adjudicating authority merely because another view may be possible. It is well settled that interference is warranted only where the impugned order is without jurisdiction, perverse, or passed in violation of the principles of natural justice [Ref: Syed Yakoob v. K.S. Radhakrishnan¹]. The said principle was reiterated by the Supreme Court in International Airport Authority of India v. International Air Cargo Workers Union². This Court has also considered the scope of writ jurisdiction in Ritz Theatre Pvt. Ltd. v. Ramesh Chandra³.

11. The aforesaid principle assumes particular significance in the present case. The questions relating to the nature of the respondent's engagement, the existence of an employer-employee relationship, the effect of the documents relied upon by him and the circumstances in which his services

¹ 1963 SCC OnLine SC 24

² (2009) 13 SCC 374



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came to an end were all matters which fell for determination before the learned Labour Court. The parties were afforded an opportunity to lead evidence, and the learned Labour Court thereafter recorded its findings upon consideration of the material before it. Thus, the mere circumstance that the petitioners seek to place a different interpretation upon the gate passes or other documents relied upon by the respondent cannot, by itself, furnish a ground for interference under Article 226/227. Unless it is demonstrated that the findings returned by the learned Labour Court are wholly unsupported by evidence or suffer from a patent error of law, this Court cannot undertake a fresh evaluation of the evidence as though exercising appellate jurisdiction. The contention of the petitioner that no appointment letter, wage register or attendance register was produced cannot, by itself, displace the finding returned by the learned Labour Court. An employer-employee relationship is not required to be established only through a formal appointment letter. The petitioners have essentially invited this Court to examine the evidentiary value of the gate passes afresh and to arrive at a conclusion different from the one reached by the learned Labour Court. Such an exercise would amount to re-appreciation of evidence and is clearly beyond the permissible scope of interference under Article 226/227 of the Constitution.

12. The contention of M/s K.K. Engineering Works that it commenced its operations only in 2011 also does not warrant interference with the impugned Award. At the highest, the said submission raises a factual dispute concerning the precise period for which the respondent was engaged by the respective managements. The learned Labour Court considered the case of

³ 2024 SCC OnLine Del 3633



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the parties and accepted the respondent's version to the extent necessary for adjudication of the dispute. The learned Labour Court specifically considered the status of the two managements while deciding Issue No.1. It noticed the evidence of MW2 that Management No.2 had closed in 2011 and, on that basis, found that the respondent's employment had thereafter continued with Management No.1. The learned Labour Court further took note of the common address of the two managements and the evidence regarding the respondent being deputed to various sites. On an overall appreciation of the evidence, it concluded that the respondent was in the employment of Management No.1 on the date of his alleged termination. This Court finds no perversity in the said finding. The contention raised by the petitioners essentially seeks a re-appreciation of the evidence and substitution of the factual conclusion reached by the learned Labour Court, which is impermissible in exercise of the supervisory jurisdiction of this Court.

13. Tested on the aforesaid principles, this Court finds that the impugned Award does not suffer from any such infirmity. The findings regarding the respondent's employment, the illegality of termination and the consequential relief are findings within the jurisdiction of the learned Labour Court and are supported by the material considered by it. The grounds urged by the petitioners consequently do not warrant interference.

14. In view of the aforesaid discussion, this Court finds no ground to interfere with the impugned Award dated 02.11.2022 passed by the learned Labour Court.

15. Consequently, W.P.(C) 6814/2023 and W.P.(C) 6910/2023 are dismissed and the impugned Award dated 02.11.2022 is upheld.



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16. The interim orders dated 19.05.2023 passed in W.P.(C) 6814/2023 and 26.05.2023 passed in W.P.(C) 6910/2023, whereby operation of the impugned Award was stayed subject to deposit of the awarded amount, shall stand vacated.

17. It is noted that, pursuant to the order dated 19.05.2023 passed in W.P.(C) 6814/2023, the awarded amount of Rs.2,00,000/- was directed to be deposited with the Registrar General of this Court. Accordingly, the amount deposited with the Registrar General of this Court in W.P.(C) 6814/2023, along with the interest accrued thereon, be released in favour of the respondent in terms of the impugned Award, by the Registry.

18. Both petitions, along with the pending applications, if any, stand disposed of in the above terms.

(MANOJ KUMAR OHRI)
JUDGE

AUGUST 6, 2026/sn