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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 21.08.2026**# **CNR No. DLHC010994022018**+ **W.P.(C) 3554/2018, CM APPLs. 47448/2018, 50119/2019**

M/S MEFCOM SECURITIES LTD. ....Petitioner

Through: Ms. Raavi Birbal, Advocate

versus

SH. SARVAN KUMAR LOHIA AND ANR .....Respondents

Through: Mr. Ayush Agarwala, Mr. Vipul Singh, Advocates for Respondent No. 1.

Ms. Avni Singh, PC, GNCTD with Ms. Harshita Raj, Ms. Roshavi Koshiyar, Advocates.

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

1. The present writ petition has been preferred by the petitioner/management challenging the award dated 21.12.2017 passed by the learned Presiding Officer, Labour Court, *Dwarka* Courts, in LIR No. 2080/16, whereby the reference was answered in favour of respondent no. 1/claimant, granting him reinstatement with full back wages and all consequential benefits.

2. The dispute came to be referred to the Labour Court in terms of the



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following reference:

*“Whether the designation of Sh. Sh. Sarvan Kumar Lohia S/o Sh. B.L.Lohia is covered under the definition of workman as per I.D. Act 1947, if so, whether his services have been illegally and/or unjustifiably terminated by the management; and if yes, to what relief is he entitled and what directions are necessary in this respect?”*

3. Briefly stated, the claimant averred before the Labour Court that he was appointed on 17.04.2008 and commenced working with the management as an “Accounts Manager” w.e.f. 16.05.2008 and his last-drawn salary was Rs.29,000/- per month. He stated that the nature of his work was purely that of an accountant, and included preparing ledger/accounts and providing information to the management. He averred that he had no power to instruct anyone nor supervised anyone’s work. He alleged that when he demanded legal facilities, the management became annoyed, pressured him to resign, and upon his refusal, illegally terminated his services w.e.f. 13/16.11.2009 without giving any notice, compensation, or paying his earned wages in violation of Sections 25F and 25G of the Industrial Disputes Act, 1947 (hereinafter the “ID Act”), solely to accommodate another individual, namely *Sh. I. C. Jain*.

4. The management contested the claim by raising a preliminary objection that the claimant was not a “workman” under Section 2(s) of the ID Act as he was designated as “Accounts Manager”, was drawing a monthly salary of Rs.29,000/-, and was heading the Accounts Division with complete administrative and supervisory control over subordinate staff. On merits, the management denied illegal termination and



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contended that the claimant had himself abandoned his services w.e.f. 16.11.2009 after taking 2 days' leave on 11.11.2009 and 12.11.2009, and conveyed that he was leaving the job for better prospects.

5. In the aforesaid backdrop, the following issues were framed by the Labour Court on 10.10.2011:

- “1. Whether the workman is covered u/s 2 (s) i.e, within definition of workman provided in the ID Act, 1947? OPW*
- 2. Whether the workman himself abandoned services of the management w.e.f 16.11.2009? OPM*
- 3. Relief.”*

6. The Labour Court decided issue no. 1 in favour of the claimant, holding that he was a “workman” within the meaning of Section 2(s) of the ID Act. *Qua* issue no. 2, the Labour Court held that the management failed to substantiate the plea of abandonment, as no show-cause notice was issued, no domestic enquiry was initiated, and the plea of a telephonic message from the claimant appeared to be an afterthought. Consequently, the Labour Court directed reinstatement of the claimant with full back wages, consequential benefits, and interest @ 9% per annum in the event of default. Aggrieved by the same, the management has preferred the present writ petition.

7. Ms. Raavi Birbal, learned counsel for the petitioner/management, contends that the claimant was the highest-paid employee in the management organization, earning Rs.29,000/- per month. She further contends that the onus to prove “workman” status lay squarely upon the claimant, who was required to positively establish the performance of



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manual, clerical, technical, skilled, or unskilled duties rather than merely asserting a lack of managerial functions. In this regard, she places reliance upon Sonipat Cooperative Sugar Mills Ltd. Vs. Ajit Singh<sup>1</sup> and H. R. Adyanthaya Vs. Sandoz (India) Ltd. & Ors.<sup>2</sup>. She further contends that the Labour Court erred in drawing an adverse inference against the management for non-production of a final appointment letter, and that the finding regarding illegal termination is perverse.

8. *Per contra*, learned counsel for respondent no. 1/claimant supports the impugned award and submits that designation and salary are not relevant criteria for determining whether the claimant qualifies as a “workman” under Section 2(s) of the ID Act, but rather, the dominant nature of the duties performed by him must be considered for determining the same. He submits that the management failed to lead any cogent documentary or oral evidence to prove that the workman discharged any managerial or supervisory functions, and failed to examine any alleged subordinate employees. He further submits that the plea of abandonment is completely baseless, as no call records were produced, no show-cause notice was issued, and no domestic enquiry was conducted prior to striking the workman’s name off the employee rolls.

9. I have heard the learned counsels for the parties and carefully examined the record.

10. Before proceeding further, this Court takes note of the limited

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<sup>1</sup> (2005) 3 SCC 232

<sup>2</sup> (1994) 5 SCC 737



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scope of writ jurisdiction in exercise of powers conferred under Articles 226/227 of the Constitution of India. It is well settled that the challenge is not in the nature of an appeal, but to see if the order has been passed without jurisdiction, is perverse, or does not follow the principles of natural justice (Ref: Syed Yakoob Vs. K.S. Radhakrishnan<sup>3</sup>). The said principle was reiterated by the Supreme Court in International Airport Authority of India Vs. International Air Cargo Workers Union<sup>4</sup>. This Court has also considered the scope of writ jurisdiction in Ritz Theatre Private Limited Vs. Ramesh Chandra<sup>5</sup>.

11. A perusal of the record shows that while adjudicating issue no. 1, the Labour Court noted that the initial offer of appointment dated 17.04.2008 (Ex. WW1/M1) explicitly stated that a final appointment letter would be issued after joining. MW-1 in his cross-examination categorically admitted that Ex. WW1/M1 was not the final appointment letter issued to the claimant. Since no final appointment letter was placed on record by the management detailing the nature of the duties assigned to the claimant, the Labour Court drew an adverse inference against the management under Section 114 of the Indian Evidence Act, 1872.

12. Furthermore, while the management claimed that the claimant was exercising supervisory control over other employees, namely *Govind Beherwa*, *Virender Singh*, and *Reshmi Maurya*, the claimant explicitly denied the same in his cross-examination. Despite taking this specific

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<sup>3</sup> 1963 SCC OnLine SC 24

<sup>4</sup> (2009) 13 SCC 374

<sup>5</sup> 2024 SCC OnLine Del 3633



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plea, the management chose not to examine any of the said employees to establish that they were reporting to or being supervised by the claimant. Nor did the management produce any documentary record before the Labour Inspector to reflect the exercise of supervisory powers by the claimant. In the absence of any primary material indicating that the dominant nature of his employment was managerial or supervisory, the Labour Court rightly concluded that the claimant fell within the definition of “workman” under Section 2(s) of the ID Act.

13. With respect to issue no. 2, the Labour Court noted that MW-1 admitted in his cross-examination that no show-cause notice or letter was ever issued to the claimant directing him to resume duties, nor was any enquiry initiated against him. It was also admitted that the management’s earlier reply to the Inspector under the Minimum Wages Act, 1948 (Ex. WW1/9) made no mention of any telephonic communication regarding resignation or abandonment, establishing that the plea of abandonment was an afterthought. Thus, the Labour Court correctly held that the management had failed to discharge the burden of proving that the claimant had voluntarily abandoned his employment.

14. Accordingly, this Court is of the considered opinion that the finding of illegal termination arrived at by the Labour Court does not suffer from any perversity or infirmity warranting interference under writ jurisdiction.

15. However, on the question of relief, this Court takes note of the undisputed position that the claimant is now well past the age of



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superannuation, statedly being around 67 years of age presently. Due to the passage of time, the relief of reinstatement has been rendered unviable and impracticable.

16. At this stage, learned counsel for the petitioner, Ms. Birbal, on instructions, submits that without prejudice to the petitioner's contentions, the petitioner consents to the payment of a consolidated financial compensation.

17. Having regard to the totality of facts and circumstances, including the relatively short period of service rendered by the claimant being approximately 1&½ years, the wages drawn by him at the time, the intervening period of nearly 17 years after termination in the year 2009, and his having since crossed the age of superannuation, this Court deems it just and appropriate to mould the relief by modifying the direction of reinstatement and back wages into a lump-sum compensation.

18. Accordingly, the management/petitioner is directed to pay a sum of Rs.6,00,000/- to the claimant/respondent no. 1 within a period of 6 weeks from today, failing which the said amount shall carry interest @ 9% per annum from the date of this order until its realization.

19. The present writ petition, along with the pending applications, is disposed of in the above terms.

**(MANOJ KUMAR OHRI)**  
**JUDGE**

**AUGUST 21, 2026**

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corrected and released on 31.08.2026

Signature Not Verified

Digitally Signed  
By:NIJAMUDDIN ANSARI  
Signing Date:31.08.2026  
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