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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. DLHC012633872017**+ W.P.(C) 4906/2017, CM APPL. 21263/2017, CM APPL.
21291/201 and CM APPL. 46480/2017

M/S INDIAN PRINTING WORKS Petitioner

Through: Mr. Rajesh Kumar Gautam,
Ms. Likivi K. Jakhalu, and
Ms. Ayal Akram, Advocates

versus

RATAN KASHYAP Respondent

Through: Mr. J. M. Kalia and
Mr.Dhruv Kalia, Advocates# **CNR No. DLHC011093242018**

+ W.P.(C) 5196/2018

RATAN KASHYAP Petitioner

Through: Mr. J. M. Kalia and
Mr.Dhruv Kalia, Advocates

versus

M/S INDIAN PRINTING WORKS Respondent

Through: Mr. Rajesh Kumar Gautam,
Ms. Likivi K. Jakhalu, and
Ms. Ayal Akram, Advocates**CORAM:****HON'BLE MR. JUSTICE MANOJ KUMAR OHRI****JUDGMENT (ORAL)**

1. The present cross-writ petitions are being disposed of *vide* this common judgment, as they arise out of the same impugned



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award dated 07.04.2017 passed by the learned Presiding Officer, Labour Court-XVII, *Karkardooma* Courts in LIR No. 4545/16 (Old I.D. No. 109/13).

W.P.(C) No. 4906/2017 has been preferred by *M/s Indian Printing Works* (hereinafter the “management”), whereas **W.P.(C) No. 5196/2018** has been preferred by *Ratan Kashyap* (hereinafter the “workman”).

2. The dispute before the Labour Court arose from the claim of the workman that he had joined the management on 22.04.2008 as a Helper at its unit at *C-52, Okhla Phase-II, Delhi* and was subsequently transferred to its unit at *E-4, Rani Jhansi Road, Jhandewalan, Delhi*. It was his case that he had taken leave from 18.12.2012 to 20.12.2012 and, thereafter, reported for duty on 21.12.2012. According to him, he was called by the management and asked to explain his absence, whereafter he was not permitted to resume his duties.

3. The workman issued a demand notice dated 22.12.2012 to the management, and the dispute was eventually referred to the Labour Court in terms of the following reference:

“Whether the services of workman Sh. Ratan Kashyap have been terminated illegally and unjustifiably by the management and what relief is he entitled to and what directions are necessary in this respect?”

4. The stand of the management, on the other hand, was that the workman had joined as a Helper on 17.04.2008, that his last drawn salary was Rs.7,254/- per month, and that he was a habitual absentee. It was submitted that he had remained absent without



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information on 05.12.2012, 06.12.2012, and thereafter from 18.12.2012 to 20.12.2012. According to the management, when the workman reported for duty on 21.12.2012, he was asked to explain his absence, whereafter he himself stopped attending duties. The management specifically denied having terminated his services and maintained that the workman was repeatedly asked to resume his duties, including before the Conciliation Officer as well as before the Labour Court.

5. The Labour Court framed the following issues on 12.03.2015:

- “1. *Whether the workman was absenting from duties w.e.f. 18.12.2012 without any intimation and sanction of leave? OPM.*
2. *As per the terms of reference.*”

6. In support of his case, the workman examined himself as WW-1 and relied upon, *inter alia*, his election identity card, his ESI cards, the demand notice dated 22.12.2012, the complaint before the Labour Commissioner, the proceedings before the Assistant Labour Commissioner, and the order of reference. He also examined *Sh. Radha Kant*, a co-worker, as WW-2.

The management examined its partner, *Sh. Sudesh Pal Kumar*, as MW-1 and relied upon, *inter alia*, an apology letter dated 28.06.2012, a leave application dated 07.12.2012 marked as Ex. MW1/2, and another leave application marked as Ex. MW1/3.

7. The Labour Court noted that the workman had not produced any leave application to substantiate his assertion of having informed the management in advance regarding his leave from 18.12.2012 to 20.12.2012. Conversely, Ex. MW1/3 was an undated



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leave application seeking leave only for 19.12.2012 and 20.12.2012. The Labour Court also noted that while MW-1 had deposed that several letters had been issued to the workman asking him to rejoin duties, not a single such letter, memo, or notice was placed on record. At the same time, the Labour Court noted that an offer allowing the workman to rejoin duties had been made before the Court itself, which he declined on the ground that he was willing to rejoin only if back wages were paid.

8. The Labour Court ultimately held that once the workman had submitted Ex. MW1/3 regarding his absence on 19.12.2012 and 20.12.2012, the matter ought to have ended with an explanation or, at most, some punishment such as a warning. It concluded that the management had instead taken the drastic step of refusing to permit him to resume duties. Accordingly, both issues were decided in favour of the workman and against the management.

9. On the question of relief, the Labour Court noted that even an illegal termination would not automatically result in reinstatement with full back wages. Further, it was observed that the claimant had not averred in his statement of claim that he had remained unemployed since the date of termination, nor was the same borne out by his testimony. The Labour Court further noted that the workman had acquired experience of about 4 years and 8 months while working as a Helper and Inkman, and observed that if he had approached another business establishment, he would have been able to obtain employment of equal status and salary. Consequently, reinstatement was ruled out, and a lump-sum compensation of



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Rs.1,20,000/- was awarded, payable within 1 month from the date of publication of the award, failing which the amount was to carry interest @ 9% per annum from the date of the award till realization.

10. Learned counsel for the management has primarily challenged the finding of the Labour Court that the management had refused to permit the workman to resume duties and, consequently, illegally terminated his services. It is contended that the workman took an inconsistent stand before the Assistant Labour Commissioner and the Labour Court, inasmuch as his complaint dated 31.12.2012 did not allege termination or of being refused permission to join duties. It is further submitted that the management had consistently maintained that the workman had not been terminated and had offered him an opportunity to resume duty, including *vide* reply dated 04.03.2013 and a letter issued in May 2013, which the workman admitted having received but did not act upon. Learned counsel has also contended that the allegations regarding the non-extension of statutory benefits were not proved and that the testimony of WW-2 did not support the workman's version regarding the alleged police incident.

11. *Per contra*, learned counsel for the workman submits that although the Labour Court correctly decided both issues in favour of the workman, it erred in denying reinstatement and awarding only Rs.1,20,000/- as lump-sum compensation.

12. I have heard the learned counsels for the parties and perused the material placed on record.

13. Before examining the rival contentions, it is necessary to bear



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in mind the limited scope of interference available to this Court in proceedings under Articles 226 and 227 of the Constitution of India. The jurisdiction exercised by this Court over an award passed by a Labour Court is supervisory and not appellate. This Court does not ordinarily reappreciate the evidence or substitute its own view for that of the adjudicating authority merely because another view may be possible. Interference is warranted only where the finding is without jurisdiction, perverse, or suffers from a patent error of law or a violation of the principles of natural justice. Reference in this regard may be made to Syed Yakooob Vs. K.S. Radhakrishnan¹. The said principle was reiterated by the Supreme Court in International Airport Authority of India Vs. International Air Cargo Workers Union². This Court has also considered the scope of interference in writ proceedings in Ritz Theatre Pvt. Ltd. Vs. Ramesh Chandra³.

14. The learned counsel for the management has relied heavily upon the fact that the workman, in his initial complaint dated 31.12.2012, did not expressly state that his services had been terminated. However, this circumstance, by itself, cannot be viewed in isolation from the subsequent proceedings, including the issuance of the demand notice and the filing of the statement of claim.

15. The Labour Court had before it the evidence that the workman reported for duty on 21.12.2012, that MW-1 admitted that the workman had worked from about 9:00 a.m. to 11:00 a.m. and that he was thereafter asked to explain his absence. The Labour

¹ 1963 SCC OnLine SC 24.

² (2009) 13 SCC 374

³ 2024 SCC OnLine Del 3633



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Court also considered Ex. MW1/3 and came to the conclusion that the workman had, at least for 19.12.2012 and 20.12.2012, submitted an application regarding leave. Upon consideration of the evidence, it concluded that the management ought not to have refused work to the workman once an explanation for his absence had been provided.

16. The question before the Labour Court was not merely whether the workman had remained absent, but whether the conduct of the management on 21.12.2012 amounted to a termination of the workman's services. The Labour Court answered that question in favour of the workman after considering the evidence led by both sides. The contention that the management had repeatedly offered the workman an opportunity to rejoin duty does not, in itself, demonstrate perversity in the award. The fact that the workman declined the subsequent offers is a circumstance which could certainly be taken into account while moulding the relief, but it does not, by itself, efface the finding already returned regarding the circumstances in which he was prevented from continuing his duties on 21.12.2012.

17. The Labour Court noted that the management had alleged irregular attendance and other instances of misconduct, but that no domestic enquiry had been conducted. The Labour Court considered the principle laid down in The Workmen of Firestone Tyre & Rubber Co. of India (P) Ltd. Vs. The Management & Ors.⁴ concerning the proof of misconduct before the adjudicating forum

⁴ AIR 1973 SC 1227



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where no domestic enquiry has been held. In any event, the ultimate finding of the Labour Court was not based merely upon the alleged misconduct, but upon its conclusion that the management had refused to permit the workman to resume duties.

18. The contention based on the testimony of WW-2 is also not convincing. The management is seeking a reappraisal of the testimony of the said witness to contend that he did not support the workman's version regarding the police incident. However, even assuming that WW-2 did not fully support every aspect of the workman's case, the finding regarding termination was not founded exclusively upon the alleged assault or the calling of the police. The Labour Court considered the workman's attendance, the leave application, his reporting for duty on 21.12.2012, the evidence of MW-1, and the subsequent offer of before arriving at its conclusion. Unless the findings are shown to be wholly unsupported by evidence or so unreasonable that they can be characterised as perverse, this Court would not substitute its own appreciation of evidence for that of the Labour Court. Consequently, the management's challenge to the award on the premise that no termination had taken place cannot be sustained.

19. The principal grievance of the workman is that the Labour Court erred in observing that there was no pleading or evidence regarding his unemployment and, on that basis, ruled out reinstatement. The Labour Court, however, was considering the question of appropriate relief after having found the termination to be illegal. The grant of reinstatement with back wages is not an



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automatic consequence of every finding of illegal termination. The Labour Court is required to mould the relief having regard to the facts and circumstances of each case. While denying reinstatement, the Labour Court did not rely solely upon the absence of a specific averment of unemployment. It also took into consideration the workman's length of service, his experience as a Helper and Inkman, and the circumstances in which the dispute had arisen. It further took note of the fact that an offer to resume duty had been made before the Court, which the workman had declined unless back wages were paid. These were relevant circumstances while considering the appropriate relief. The question before this Court is whether the decision of the Labour Court to award compensation in lieu of reinstatement suffers from such perversity or illegality as would warrant interference in writ jurisdiction. In this regard, the legal position is well settled that reinstatement is not an inevitable or automatic consequence of a finding of illegal termination. The Labour Court itself considered several decisions detailing the Court's discretion to mould relief, including Nehru Yuva Kendra Sangathan Vs. Union of India & Ors.⁵, Municipal Council, Sujapur Vs. Surinder Kumar⁶, Talwara Cooperative Credit & Service Society Ltd. Vs. Sushil Kumar⁷, and Jagbir Singh Vs. Haryana State Agriculture Marketing Board⁸. The said decisions recognise that the Labour Court is required to balance the circumstances of each case while deciding whether reinstatement, back wages, or monetary

⁵ 2000 IV AD (Delhi) 709

⁶ 2006 LLR 662

⁷ (2008) 9 SCC 486



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compensation would be appropriate. The issue of reinstatement and the quantum and nature of monetary relief remain matters requiring consideration in the facts of each case.

20. The contention that the amount of Rs.1,20,000/- is inadequate essentially invites this Court to undertake a fresh assessment of the appropriate quantum of compensation. The mere fact that another amount may also be considered reasonable cannot furnish a ground for interference under Articles 226/227, particularly when the Labour Court exercised its jurisdiction to mould the relief and has assigned cogent reasons for declining reinstatement. The same principle applies to the management's challenge to the award of compensation. Once the finding of illegal termination is held to be a factual finding within the jurisdiction of the Labour Court and supported by the evidence considered by it, the award of consequential monetary relief cannot be interfered with lightly.

21. Accordingly, this Court finds that neither of the two petitions discloses any ground warranting interference with the impugned award. Entertaining either challenge would fall outside the limited scope of this Court's supervisory jurisdiction in the facts of the present case.

22. Consequently, the impugned award is upheld, and the present cross-writ petitions are dismissed.

23. It is further noted that, pursuant to the interim order dated 31.05.2017 passed in W.P.(C) No. 4906/2017, the management was directed to deposit a sum of Rs.1,20,000/- in the form of an FDR

⁸ (2009) 15 SCC 327



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with the Registrar General of this Court, subject to which the operation of the impugned award was stayed. In view of the dismissal of both writ petitions, the interim order dated 31.05.2017 shall stand vacated.

24. The amount of Rs.1,20,000/- deposited with the Registrar General of this Court pursuant to the aforesaid interim order, along with the interest accrued thereon, shall be released by the Registry in favour of the workman, *Ratan Kashyap*, in terms of the impugned award.

25. The pending applications also stand disposed of as infructuous.

(MANOJ KUMAR OHRI)
JUDGE

AUGUST 06, 2026
kb/nb

corrected and released on 18.08.2026