



2026:DHC:5970



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IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on: 13th May, 2026******Date of Decision: 27th July, 2026******Uploaded on: 28th July, 2026***

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W.P.(C) 1594/2007

JAI PRAKASH & ORS.

.....Petitioners

Through: Mr. Sarvesh Bisaria, Ms. Ashish Azad, Advs.

versus

D.D.A.

.....Respondent

Through: Mr. Arun Birbal, Adv.

+

W.P.(C) 3938/2011

DDA

.....Petitioner

Through: Mr. Arun Birbal, Adv.

versus

BHAN PRAKASH SHARMA AND ORS

.....Respondents

Through: Mr. Sarvesh Bisaria, Ms. Ashish Azad, Advs.

+

W.P.(C) 6900/2012

SUSHIL KUMAR AND ANR

.....Petitioners

Through: Mr. Ashwani Kumar Sharma, Mr. Pramod Kumar, Ms. Divya Ahuja, Advs.

versus

D.D.A.

.....Respondent

Through: Mr. Arun Birbal, Adv.

+

W.P.(C) 2858/2015

RAMBIR SINGH

.....Petitioner

Through: Mr. Ashwani Kumar Sharma, Mr. Pramod Kumar, Ms. Divya Ahuja, Advs.

versus

DELHI DEVELOPMENT AUTHORITY

.....Respondent

Through: Mr. Arun Birbal, Adv.

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W.P.(C) 612/2015

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W.P.(C) 1594/2007 & other connected matters

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JAGPAL SHARMA

.....Petitioner

Through: Mr. Ashwani Kumar Sharma, Mr.
Pramod Kumar, Ms. Divya Ahuja,
Advs.

versus

DELHI DEVELOPMENT AUTHORITY

.....Respondent

Through: Mr. Arun Birbal, Adv.

+ W.P.(C) 8086/2016

BHANWAR PAL SINGH AND ORS

.....Petitioners

Through: Mr. Ashwani Kumar Sharma, Mr.
Pramod Kumar, Ms. Divya Ahuja,
Advs.

versus

DELHI DEVELOPMENT AUTHORITY

.....Respondent

Through: Mr. Arun Birbal, Adv.

+ W.P.(C) 5304/2023

ISHWAR SINGH & ANR.

.....Petitioners

Through: Mr. Sarvesh Bisaria, Ms. Ashish
Azad, Advs.

versus

DELHI DEVELOPMENT AUTHORITY THROUGH ITS
SECRETARY

.....Respondent

Through: Mr. Arun Birbal, Adv.

CORAM:**HON'BLE MS. JUSTICE SHAIL JAIN****JUDGMENT****SHAIL JAIN, J.****FACTS OF THE CASE:**

1. The present batch of writ petitions has been preferred under Articles 226 and 227 of the Constitution of India assailing the awards passed by different Labour Courts/Industrial Adjudicators in industrial disputes concerning various workmen and the Delhi Development Authority



(hereinafter referred to as "DDA"). While in certain matters, the Labour Courts rejected the claims of the workmen, in one of the connected matters, reliefs including reinstatement with consequential benefits came to be granted, leading either the workmen or the DDA to invoke the writ jurisdiction of this Court.

2. Since all the aforesaid matters arise from an interconnected factual matrix and involve substantially similar questions of fact and law, they were heard together and are being disposed of by this common judgment. The facts are narrated hereinbelow with reference to each connected matter.

3. The DDA is a statutory body incorporated under the Delhi Development Act, 1957. The disputes in all the connected matters emanate from claims raised by different workmen who assert that they were engaged by the DDA in various capacities, including as Mates, Beldars, Chowkidars and Security Guards in its Engineering Divisions. According to the workmen, they joined the services of the DDA in or around the year 1982 and were subsequently regularised on different dates in the year 1985. They assert that they continuously discharged their duties under the control and supervision of the DDA and that their services were discontinued in and around the year 1990.

4. The workmen have alleged that the discontinuance of their services was effected orally and without adherence to the procedure prescribed by law. According to them, no charge-sheet was issued, no domestic enquiry was conducted and no notice pay or retrenchment compensation was paid to them prior to the discontinuance of their services. The workmen accordingly served demand notices upon the management and sought reinstatement in service with continuity of service, back wages and all consequential benefits.



5. The DDA contested the claims and disputed the very basis of the alleged engagement of the workmen. The consistent stand of the management in the connected matters has been that the concerned workmen were never lawfully appointed by it and had allegedly entered service on the basis of forged and fabricated transfer orders, relieving orders and other documents. It is the case of the DDA that upon the forgeries coming to light, complaints were made to the relevant police stations and FIR No. 42/1990 came to be registered at Police Station Trilok Puri, *inter alia*, recording that the establishment orders issued from the office of the Chief Engineer (East Zone), DDA were found to pertain to other genuine employees of the DDA, and that the personal files and service books of the concerned workmen appeared to be forged. Criminal proceedings were thereafter initiated, the investigating agency seized the service records of the workmen under a seizure memo dated 18.09.1992, and a CBI FIR bearing No. RC-IIIS/92-Delhi was eventually recorded on 20.09.1992, during the investigation of which it was revealed that a large number of persons had been able to work with the DDA on the basis of forged and fabricated documents. According to the management, the appointments, if any, were *void ab initio* and, consequently, no valid relationship of employer and employee ever came into existence between the parties. It was, therefore, contended that no question of illegal termination or entitlement to reinstatement and consequential benefits arose.

6. Upon failure of conciliation proceedings, references came to be made by the Appropriate Government under Section 10(1)(c) read with Section 12(5) of the Industrial Disputes Act, 1947 for adjudication of the disputes. The references broadly pertained to the question whether the workmen had



abandoned their services or whether their services had been terminated illegally and/or unjustifiably by the management, and if so, to what relief they were entitled.

7. Oral and documentary evidence was led by both sides before the respective Labour Courts. Upon consideration of the pleadings, evidence and material placed on record, separate awards came to be passed. The awards were, however, not uniform, while one Labour Court held in favour of the workmen and granted reinstatement with consequential benefits, others held that the workmen had failed to establish the existence of a valid employer-employee relationship and accordingly rejected their claims.

8. The principal connected matters forming part of the present batch, along with the material particulars of each, are set out in the table hereinbelow:

S. No.	W.P (C) No.	Parties	Labour Court Reference	Award Date	Result of Award
1.	1594/2007 (Workmen's Petition)	Jai Prakash &Ors. v. DDA [Workmen: Jai Prakash (Mate), Brahm Pal (Beldar), Kushal Pal (Security Guard), ChanderBhan (Security Guard), Om Prakash (Beldar), Ishwar Singh (Mate); All joined: 01.01.1982; all regularised: 1985; services ceased: Jan.-Feb. 1990	I.D. No. 1001/1997, Labour Court-X, Karkardooma	15.07.2006	Claim of workmen dismissed.
2.	3938/2011 (DDA's Petition)	DDA v. Bhan Prakash Sharma &Ors. [Workmen: Bhan Prakash Sharma (Security Guard), Shishu Pal Singh (Mate), Pappu Sharma (Beldar), Raja Ram Sharma (Beldar), Rajinder Singh (deceased) (Beldar), Tek Chand Sharma (deceased) (Beldar) , Satish	LIR No. 574/2006 (Old I.D NO. 01/02), Labour Court-XIX, Karkardooma	07.12.2010	Claim of workmen allowed: reinstatement with full back wages ordered; liberty to DDA to hold domestic enquiry after



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		Kumar (deceased) (Khalasi) All Joined: 01.02.1982; services ceased: 1989-90			reinstatement. DDA has challenged.
3.	6900/2012, (Workmen's Petition)	Sushil Kumar & Anr. v. DDA [Workmen: Sushil Kumar (Mate), Vinod Kumar (Mate) Both joined : 01.02.1982; services discontinued: 1990-1991; FIR No. 42/1990 invoked by DDA against them]	I.D. No. 151/2011, Labour Court	11.07.2012	Claim of workmen dismissed.
4.	2858/2015, (Workmen's Petition)	Sh. Rambir Singh v. DDA [Workmen: Rambir Singh (Beldar), Joined: 01.02.1982 Terminated : 25.01.1990	I.D No. 468/06 (Old No. 8/97), Labour Court- XX, (Fast Track), Karkardooma Courts	23.05.2007	Claim of workmen dismissed.
5.	612/2015 (Workmen's Petition)	Sh. Jagpal Sharma v. DDA [Workmen: Jagpal Sharma (Beldar), Joined: 1982 Terminated : 1990	I.D No. 509/06 (Old No. 388/98), Labour Court- XX, (Fast Track), Karkardooma Courts	23.05.2007	Claim of workmen dismissed.
6.	8086/2016 (Workmen's Petition)	Bhanwar Pal Singh & Ors. v. DDA [Workmen: Bhanwar Pal Singh (Beldar), Paras Ram (Beldar), Giri Raj (Chowkidar), Philip Daniel (Beldar, deceased), Suresh Singh (Beldar), Satish Kumar Sharma (Chowkidar), Ajay Kumar Sharma (Beldar, deceased), Nawab Singh (Security Guard); All joined: 01.02.1982 (Nawab Singh: 01.01.1988); services terminated: 07.10.1990	I.D. No. 2764/16 (Old I.D. No 1178/04), Labour Court- XI, Karkardooma	25.01.2016	Claim of Workmen dismissed.

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7.	5304/2023 (Workmen's petition)	Ishwar Singh & Anr. v. DDA [Petitioners: Ishwar Singh (Mate) and Brahm Pal (Beldar); same reference as W.P.(C) No. 1594/2007]; filed pursuant to direction in that petition dated 11.10.2022]	I.D. No. 1001/1997, Labour Court- X, Karkardooma	15.07.2006	Claim of Workmen Dismissed. (Same award as in W.P.(C) No. 1594/2007)
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SUBMISSIONS OF THE PARTIES:

9. Having narrated the facts, this Court proceeds to notice the rival submissions advanced by learned counsel for the parties across the connected matters. Since the workmen in all the connected matters have, by and large, advanced common submissions resisting the DDA's plea of forged appointment, and since the DDA has equally advanced a common set of submissions in support of its plea across these matters, the submissions are noticed broadly under two heads, with variations specific to individual matters indicated where relevant.

Submissions on behalf of the DDA:

10. Learned counsel for the DDA submitted that the basis of any employment is a contract entered into by the free and voluntary consent of both parties, and that consent obtained on the basis of fraud is no consent in the eyes of law. It was submitted that the workmen in the connected matters had never been validly appointed by the DDA and had merely been able to work in its establishments for a period of time on the strength of forged and fabricated transfer orders, relieving orders and other documents that, upon verification, were found to belong to or pertain to other genuine employees of the DDA. It was submitted that since no valid contract of employment ever came into existence, the workmen could not claim the status of employees, and consequently no question of illegal termination,



retrenchment or entitlement to reinstatement could arise.

11. It was submitted that a disciplinary enquiry is required to be held only where a person is, in fact, in the employment of the management; no such requirement arises in the case of a person who has merely pretended to be an employee. Reliance in this regard was placed on the orders of this Court in **DDA v. Presiding Officer, Labour Court-I and Another** [WP(C) No. 1133/1996, order dated 19.03.2010], **Virender Singh v. Presiding Officer and Another** [WP(C) No. 9390/2005, judgment dated 17.10.2006], and **Vinod Kumar v. DDA** [WP(C) No. 2066/2011, judgment dated 08.12.2015]. It was submitted that even assuming an enquiry was warranted, the Labour Courts, upon appreciation of the evidence on record, had in several of the connected matters rightly concluded that the workmen were not employees of the DDA, and this Court ought not to disturb such concurrent findings of fact, relying on **DDA v. Pratap Singh** [WP(C) No. 7390/2011, judgment dated 21.08.2012] and **DDA v. Presiding Officer and Another** [WP(C) No. 2468/1998, judgment dated 19.04.2010].

12. It was further submitted that it was for the workmen, and not the DDA, to establish in the first instance that they were validly employed, the DDA could not be called upon to prove a negative. Reliance was placed on **DDA v. Harpal Singh and Others** [WP(C) No. 3171/2003, order dated 29.03.2006]. It was submitted that none of the workmen had been able to produce a single document evidencing their employment prior to the date of the impugned transfer orders, and that in the ordinary course, genuine employees of long standing would necessarily possess some independent record of their initial appointment, joining, or postings predating the documents found to be forged.



13. It was submitted that the forgeries in question were not isolated instances but part of a wider modus operandi employed by several persons across multiple establishments of the DDA, which had come to light upon investigation. It was submitted that the matter had been reported to the police, that FIR No. 42/1990 was registered at Police Station Trilok Puri, and that the Central Bureau of Investigation had also registered FIR No. RC-IIS/92-Delhi dated 20.09.1992 upon receiving source information, during the investigation of which it was revealed that a large number of persons had similarly gained entry into the DDA's establishments on forged documents, with the names of several of the present workmen appearing in a list of bogus employees prepared by the CBI. It was submitted that upon the forgeries being detected, the workmen apprehended action against themselves and absconded, and it was for this reason, and not on account of any illegal termination by the DDA, that they ceased to report for duty.

14. As regards the award dated 07.12.2010 in the Bhan Prakash Sharma matter, it was submitted that the said award, and the relief of reinstatement and back wages granted thereunder, had already been stayed by this Court *vide* order dated 01.06.2011 in W.P.(C) No. 3938/2011, that the workmen's prayer for interim relief under Section 17-B of the Industrial Disputes Act, 1947 had been declined *vide* order dated 05.10.2011, and that the said order had been upheld in LPA No. 118/2012. It was submitted that the said award could not, therefore, be treated as a binding precedent in favour of the workmen in the other connected matters, the correctness of the findings recorded therein being itself under challenge before this Court. As regards the records relied upon by the workmen, it was submitted that whatever service records and connected documents were available with DDA, were



seized by the investigating agency in the course of the criminal investigation and were subsequently submitted before the concerned criminal court, where they came to be destroyed following conclusion of the criminal proceedings; this, it was submitted, explained the DDA's inability to produce the said original records before the Labour Courts. It was accordingly prayed that the writ petition filed by the DDA be allowed and the awards directing reinstatement be set aside, and that the writ petitions filed by the workmen, impugning awards that had dismissed their claims, be dismissed with costs.

Submissions on behalf of the Workmen:

15. Learned counsel appearing for the workmen in the connected matters submitted that the factum of their employment with the DDA was never seriously in dispute, what was in dispute was merely the legitimacy of that employment. It was submitted that once the DDA itself admitted, whether expressly or through its own witnesses, that the workmen had worked in its establishments and drawn salary for several years, the onus shifted to the DDA to prove its allegation that the appointments were founded on forged or fabricated documents. Reliance was placed on the settled principle that 'he who alleges fraud must prove it', and it was contended that the Labour Courts which placed the burden of disproving fraud on the workmen instead of requiring the DDA to establish it had committed a fundamental error going to the root of the matter.

16. It was further submitted, with reference to the evidence recorded before Labour Court-XI in the Bhanwar Pal Singh matter, that the DDA's own management witness (MW-1) had admitted in cross-examination that the workmen had drawn salary from the DDA for the period 1985 to 1990, that the accounts of the DDA for the said period had been audited without



any discrepancy being found, and that no departmental enquiry had been initiated against any of the workmen. It was urged that this admission by the DDA's own witness was fatal to its case of forged appointment, since if bogus employees had indeed been drawing salaries, the audited accounts would necessarily have reflected some discrepancy.

17. It was submitted that the DDA had, at no stage, issued any charge-sheet, granted any opportunity of hearing, or conducted any domestic enquiry against any of the workmen before discontinuing their services. Counsel relied upon the well-settled principle that even where an employer alleges misconduct or fraud against a workman, the termination of services without holding a domestic enquiry amounts in law to retrenchment, and that such retrenchment, if effected without compliance with the mandatory conditions prescribed under the Industrial Disputes Act, 1947 including payment of retrenchment compensation and service of notice is rendered illegal. It was submitted that since no enquiry had been held into the allegation of forgery, the workmen could not have been dismissed otherwise than by way of disciplinary action following such an enquiry, and the termination of their services was accordingly illegal, arbitrary and violative of the principles of natural justice.

18. It was next submitted that the persons who were named as accused in the relevant FIRs including FIR No. 42/1990 registered at Police Station Trilok Puri were not the workmen before the Labour Courts, and that those who were so named and prosecuted had in any event been acquitted by the learned Metropolitan Magistrate. It was submitted that in the absence of any cogent evidence or documentary proof in support of the allegation of forgery, and in the face of documentary evidence led by the workmen in the



form of appointment letters, identity cards, service records and salary records, the finding of forgery returned by certain Labour Courts could not be sustained.

ANALYSIS:

19. This Court has heard learned counsel for the parties at length and has carefully perused the pleadings, the oral and documentary evidence led before the learned Labour Courts, the impugned awards and the written submissions placed on record.

20. Since all the present petitions arise out of substantially similar facts, involve common questions of law and challenge awards rendered in respect of workmen who claim to have entered the service of the Delhi Development Authority ("DDA") under identical circumstances, they were heard together and are being disposed of by this common judgment.

21. Before advertng to the merits of the case, it is necessary to identify the precise controversy which falls for determination. At the outset, it deserves notice that all the Labour Courts were confronted with substantially the same factual narrative. The workmen asserted that they had initially joined the services of the Delhi Development Authority in the year 1982, were regularised sometime in 1985, continued to work till the year 1990 and were thereafter prevented from discharging their duties without compliance with the provisions of the Industrial Disputes Act, 1947. The defence of the DDA, on the other hand, consistently was that none of the concerned workmen had ever entered its service through any lawful process, that they had allegedly secured entry into its establishment on the strength of forged transfer orders and fabricated service records and consequently, no valid relationship of employer and employee ever came into existence.



22. The record further reveals that save and except the award dated 07.12.2010 rendered by the learned Labour Court-XIX in the case of *Bhan Prakash Sharma &Ors.*, every Labour Court, upon appreciation of substantially similar pleadings and evidence, returned a concurrent finding that the workmen had failed to establish their claim of lawful employment with the DDA. The award in *Bhan Prakash Sharma* alone has taken a contrary view and directed reinstatement of the workmen with consequential benefits. The correctness of this divergent approach, therefore, lies at the heart of the present batch of petitions.

23. In the *Bhan Prakash Sharma* batch, the award dated 07.12.2010 passed by the learned Presiding Officer, Labour Court-XIX in LIR No. 574/2006, concluded that once it was admitted that the workmen had worked in the establishments of the DDA and no departmental enquiry had preceded the cessation of their services, the management could not justify the termination merely by alleging that the appointments were founded upon forged documents. Proceeding on this reasoning, the Labour Court directed reinstatement with continuity of service, full back wages and consequential benefits, while simultaneously granting liberty to the DDA to hold an enquiry in accordance with law with respect to the allegations of forgery after reinstatement. The relevant portion of the award reads as under:

"Management has failed to examine any witness/official to prove that the claimants herein were not appointed by the management as per the procedure. They have also failed to prove on record that any of the workman had joined the service with the management by any fraudulent means. The management has miserably failed to prove on record that any of the workman had forged and fabricated the



transfer/relieving orders. The workmen who were allegedly involved in criminal cases have been acquitted by the concerned court.

[...]Therefore, they are entitled to reinstatement in service with full back wages and consequential benefits. The management is therefore directed to reinstate all the seven workmen namely S/Sh. Bhan Prakash, ShishuPal,,Pappu Sharma, Raja Ram, Rajinder Singh, Tek Chand and Satish Kumar with full back wages, continuity of service and consequential benefits within a period of 30 days from the date of publication of this award, failing which the management shall have to pay interest @ 12% P.A. till actual date of payment. However, the management shall be at liberty to hold enquiry after affording opportunity of being heard to the workmen and take decision in respect of the alleged forgery/fabrication or appointment letter/ transfer orders etc as per law."

24. By contrast, in the other set of matters, particularly the award dated 25.01.2016 passed by Labour Court-XI in I.D. No. 2764/16 (the *Bhanwar Pal Singh* batch) and the award dated 15.07.2006 passed by Labour Court-X in I.D. No. 1001/1997 (the *Jai Prakash* batch), the Labour Courts proceeded on a fundamentally different premise. Those Labour Courts held that the workmen had failed to establish that they were lawfully appointed employees of the DDA and that, in the absence of proof of a valid employer-employee relationship, no occasion arose to examine the legality of the alleged termination. Consequently, the references came to be answered against the workmen. The relevant portion of the award of Labour Court-X is reproduced hereunder:

"In the present case, the workmen have not led any direct evidence to prove that they were employees of



the management. The case of the management is that the workmen joined service on the basis of forged transfer orders. In the present case, the workmen have not examined the persons who had issued the transfer orders. Nor the workmen have documents which have been relied upon, have not been proved in accordance with law and, apart from their affidavits, there is no proof that the workmen were ever appointed by the management.

[...] Therefore, under these circumstances, in my considered opinion, the workmen have failed to prove that they were ever employed by the management. Consequently, the question of termination of their services by the management does not arise at all. Accordingly, this issue is decided against the workmen and in favour of the management. The workmen are not entitled to any relief. The reference is answered accordingly and the award is passed."

25. The question, therefore, is not whether two possible views could have been taken on appreciation of evidence. The question is whether the approach adopted in the solitary award rendered in *Bhan Prakash Sharma* represents the correct exposition of law or whether the contrary approach consistently adopted in the remaining awards is legally sustainable. The resolution of this issue necessarily requires an examination of the principles governing burden of proof in industrial adjudication.

ISSUE I: NATURE OF THE CONTROVERSY AND BURDEN OF ESTABLISHING THE EMPLOYER-EMPLOYEE RELATIONSHIP

26. Learned counsel appearing on behalf of the workmen vehemently contended that the DDA never disputed that the workmen had actually discharged duties in its establishment and had drawn salary for several years. According to the workmen, once such facts stood admitted, the



burden shifted upon the DDA to establish its allegation that the appointments were founded upon forged documents. It was argued that fraud is never presumed and must necessarily be proved by the party alleging it. Consequently, it was submitted that the Labour Court in *Bhan Prakash Sharma* correctly required the management to establish the alleged forgery, whereas the remaining Labour Courts committed a jurisdictional error in insisting that the workmen prove the legality of their appointments.

27. *Per contra*, Learned counsel appearing for the DDA contended that the initial burden of proving the existence of an employer-employee relationship invariably rests upon the workman and that the management cannot be called upon to prove a negative. It was argued that none of the workmen had produced any appointment letter or contemporaneous record evidencing their engagement prior to the alleged transfer orders, and that Labour Court-XIX committed a manifest error in casting the burden upon the DDA to establish that the appointments were forged. Reliance was placed on ***R.M. Yellatti v. Assistant Executive Engineer***, (2006) 1 SCC 106 and ***Krishna Bhagya Jala Nigam Ltd. v. Mohammed Rafi***, (2009) 11 SCC 522.

28. It is now too well settled to admit of any serious debate that the initial burden of proving the existence of an employer-employee relationship lies upon the person who asserts such a relationship. The Industrial Disputes Act undoubtedly confers wide powers upon Labour Courts while appreciating evidence, nevertheless, those powers do not dispense with the fundamental principle that the party asserting a legal right must first establish the foundational facts on which such right rests.

29. In ***Workmen of Nilgiri Cooperative Marketing Society Ltd. v. State***



of Tamil Nadu, (2004) 3 SCC 514, the Supreme Court observed that the burden of proving the relationship of employer and employee primarily lies upon the person who asserts its existence and that such burden cannot be shifted merely because the employer disputes the claim. Similarly, in ***Range Forest Officer v. S.T. Hadimani***, (2002) 3 SCC 25, it was held that a self-serving affidavit by the workman is not by itself sufficient to discharge the burden and that cogent evidence must be produced to establish employment.

30. In ***R.M. Yellatti v. Assistant Executive Engineer.***, (2006) 1 SCC 106, the Hon'ble Supreme Court reiterated and crystallised the law:

"...this Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary."

31. This Court respectfully adopts the approach enunciated by the learned Single Judge of this Court in ***Vinod Kumar v. DDA***, W.P.(C) No. 2066/2011, judgment dated 08.12.2015, which arose from an almost identical factual situation:

"16. At the outset, it may be made clear that the case of the respondent/management is that the petitioner secured appointment on the strength of forged or fabricated document. As such, the burden of proof is on the petitioner to prove that he secured his appointment on the basis of genuine documents. Although no charge sheet was served upon the petitioner but when the matter was before the Labour Court, the basic controversy was the genuineness of the appointment order."



32. These authorities unmistakably lay down that before a workman can seek the protection of the Industrial Disputes Act, he must first establish the existence of a legally recognisable employer-employee relationship. Unless such foundational fact is proved, the question whether the termination violated the provisions of the Industrial Disputes Act does not arise. Equally, the employer cannot be called upon to prove the non-existence of such relationship merely because the workman asserts it.

33. At this stage, it becomes necessary to notice an important distinction which, in the opinion of this Court, has not received adequate attention in the award rendered in *Bhan Prakash Sharma*. There exists a clear legal distinction between proving that a person physically worked in an establishment and proving that he entered such establishment pursuant to a lawful appointment giving rise to an enforceable contract of employment. The two expressions are not synonymous. Merely because a person is shown to have discharged duties for a certain period or even received remuneration would not, by itself, establish that he acquired the legal status of a workman under the Industrial Disputes Act. The Act protects persons whose engagement flows from a legally recognisable contract of employment. Where the very genesis of such relationship is disputed, the workman must first establish the legality of his induction into service before invoking the statutory consequences flowing from termination.

34. The present batch precisely falls within this category. The DDA has consistently maintained that the concerned workmen never entered service through any valid process of recruitment and that their induction into its establishment itself stood vitiated. Therefore, before any question regarding retrenchment, domestic enquiry or violation of Section 25F of the Act could



arise, the workmen were necessarily required to establish, by cogent evidence, that they had in fact been lawfully appointed by the DDA.

35. The approach adopted by the Labour Court in *Bhan Prakash Sharma*, however, effectively reversed this settled principle by requiring the DDA to disprove employment before insisting that the workmen establish it. Such reversal of burden, in the opinion of this Court, constitutes a manifest error of law and materially affects the ultimate findings recorded therein.

36. It therefore becomes necessary to examine whether the evidence led by the workmen was sufficient to discharge the initial burden resting upon them. It is only if such burden stood discharged that any occasion would arise to consider whether the management successfully rebutted the same.

ISSUE 2: WHETHER THE WORKMEN DISCHARGED THE INITIAL BURDEN OF ESTABLISHING A VALID EMPLOYER-EMPLOYEE RELATIONSHIP

37. Having delineated the legal position governing burden of proof, this Court proceeds to examine whether the evidence led by the workmen was sufficient to establish the foundational fact of a lawful employer-employee relationship. Since the pleadings, documentary evidence and defence raised by the parties in all the connected matters are substantially similar, it would suffice to examine the evidence in the lead matter, namely *Jai Prakash &Ors.*, the findings whereof would equally govern the remaining connected matters unless otherwise noticed.

38. A careful examination of the pleadings and evidence reveals that the entire case set up by the workmen rests upon three assertions, namely:

(i) that they were initially appointed by the DDA sometime in the year



1982;

(ii) that they came to be regularised in the year 1985; and

(iii) that they continued to discharge duties till the year 1990, when they were allegedly prevented from reporting for work.

39. Significantly, while the workmen repeatedly asserted that they entered service in the year 1982, no contemporaneous document evidencing such initial appointment was brought on record. Neither before the Labour Court nor before this Court has any workman produced an appointment order, joining report, muster roll, attendance register, wage register, salary slip or any contemporaneous official record pertaining to the period immediately following the alleged appointment in 1982.

40. This omission assumes considerable significance. The dispute in the present batch is not with regard to the nature of duties allegedly performed by the workmen after they came to be shown in the records of the DDA, but with regard to the legality of their very induction into service. Consequently, the most material evidence which the workmen were required to produce was evidence demonstrating the manner in which they initially entered the establishment of the DDA. It is precisely this foundational evidence which is conspicuously absent throughout the record.

41. The documentary evidence relied upon by the workmen substantially commences only after the year 1985 and primarily consists of office orders, transfer orders, identity cards, service book extracts, provident fund records and subsequent administrative communications. Even assuming these documents to have been exhibited before the Labour Court, they merely indicate that at some stage the names of the concerned workmen came to figure in certain departmental records. They do not, by themselves, establish



the legality of the initial appointment.

42. It must be borne in mind that every subsequent document relied upon by the workmen necessarily derives its evidentiary value from the validity of the initial induction into service. Unless the foundational appointment itself is proved, subsequent office orders, transfers, postings or salary entries could only demonstrate their continuance in service; they cannot independently establish that such service originated through a lawful process, or that it thereafter continued legally.

43. The Labour Courts whose awards are under challenge in W.P.(C.) Nos. 1594/2007, 6900/2012, 2858/2015, 612/2015, 8086/2016 and 5304/2023 have uniformly noticed this fundamental deficiency. They have concurrently recorded that none of the workmen was able to produce any contemporaneous record evidencing the initial appointment or joining in service prior to the disputed transfer orders. This Court finds no perversity in the said appreciation.

44. The evidentiary deficiency noticed above does not end with the absence of records relating to the initial engagement. The next stage of the workmen's own pleaded case, namely, their alleged regularisation in the year 1985, is equally unsupported by any contemporaneous material. Every workman has consistently pleaded that after rendering service on muster rolls between 1982 and 1985, he was regularised by the DDA and thereafter continued as a permanent employee. However, not a single workman has produced any office order, memorandum, circular, establishment record or any contemporaneous document evidencing such regularisation.

45. Regularisation in a statutory authority such as the DDA is not an informal administrative act. It necessarily results in the issuance of an order



by the competent authority and finds reflection in the establishment records of the organisation. Ordinarily, such regularisation would also entail consequential changes in the service book, seniority list, work-charge establishment, pay records and other administrative registers. Yet, the record is completely silent in this regard. Neither the alleged order of regularisation nor any record evidencing conversion from muster roll employment to regular service has been produced. The workmen also made no endeavour to summon the relevant establishment records or examine any officer from the Establishment Branch who could substantiate the plea of regularisation.

46. The significance of this omission cannot be understated. The plea of regularisation is not a peripheral assertion but constitutes a central plank of the workmen's case. It is on the basis of this plea that they assert the status of permanent employees and seek to distinguish themselves from casual or daily-rated workers. Once such a plea was specifically taken, the burden rested upon the workmen to establish the factual basis thereof by producing the best available evidence. The complete absence of any documentary or oral evidence on this aspect leaves the plea wholly unsubstantiated.

47. Learned counsel appearing for the workmen sought to contend that the subsequent departmental records, including service books, provident fund records, salary registers and transfer orders, sufficiently establish that the workmen had been regular employees of the DDA. This Court is unable to agree with this contention.

48. A careful examination of the documentary evidence relied upon by the workmen reveals that almost the entire documentary edifice commences only after the stage at which, according to the management, the workmen entered different divisions of the DDA on the strength of the **disputed**



transfer orders in the year 1987. None of these documents explains how the workmen entered service in February 1982, how they remained on muster rolls till 1985 or how they came to be regularised thereafter. Consequently, these documents cannot be treated as substitutes for the foundational evidence which the workmen were required to produce. There is absolutely no document placed or proved on record by workmen for their employment with the DDA, prior to the alleged transfer orders in 1987.

49. In the *Jai Prakash* batch [W.P.(C) No. 1594/2007 arising from I.D. No. 1001/1997 before Labour Court-X, Karkardooma, considerable reliance was placed upon photocopies of service books, personal files, offer letters, joining reports, attestation forms, office orders and performance reports. However, admittedly, no original records were produced. More importantly, none of the officers who allegedly issued these documents was examined. The authors of these documents were never produced before the Labour Court, nor were the records proved through the custodians maintaining the original establishment files. On the contrary, management witnesses MW-1 Sh. S.C. Jain, Superintendent Engineer, and MW-2 Sh. Hawa Singh, Executive Engineer, both appeared before the Labour Court, were cross-examined, and specifically deposed that the workmen had entered DDA's service on the basis of forged and bogus transfer orders. Whether the management's allegation ultimately stood established or not is not the immediate question. The more fundamental question is whether the workmen discharged the burden of proving the genuineness and authenticity of the documents upon which they themselves relied. In the considered opinion of this Court, they did not.

50. It is settled law that the mere marking of a document as an exhibit



does not dispense with the requirement of proving its execution or authenticity. In **SaitTarajeeKhimchand v. Yelamarti Satyam**, (1972) 4 SCC 562, the Supreme Court observed that the mere admission of a document in evidence does not amount to proof of its contents. The same principle was reiterated in **LIC of India v. Ram Pal Singh Bisen**, (2010) 4 SCC 491, wherein it was held that exhibiting a document cannot be equated with proving the truth of its contents. The relevant paragraph is reproduced hereinbelow:

“25. We are of the firm opinion that mere admission of a document in evidence does not amount to its proof. In other words, mere marking of exhibit on a document does not dispense with its proof, which is required to be done in accordance with law.”

51. Though proceedings before the Labour Court are not shackled by the strict technicalities of the Indian Evidence Act, the fundamental principles governing proof of documentary evidence cannot altogether be ignored. Documents which form the very basis of the workmen's claim must still inspire confidence and be shown to be genuine by acceptable evidence.

52. Similar infirmities are noticed in the remaining connected matters. In the **Bhanwar Pal Singh batch** [W.P.(C) No. 8086/2016, arising from I.D. No. 2764/16 before Labour Court-XI, Karkardooma], the provident fund records relied upon are illustrative. The GPF book of Bhanwar Pal (Ex. WW1/12), which was strongly relied upon to establish continuity of service, itself commences from March, 1986. Thus, even this document does not support the pleaded case regarding service from February, 1982 till the alleged regularisation in 1985. During cross-examination, Bhanwar Pal admitted that the GPF entries commence only from the year 1986 and



further admitted that he was unable to produce any document evidencing his service between 1982 and 1985. Far from filling the evidentiary gap noticed above, the document reinforces it.

53. The evidentiary value of the said GPF record is further diluted by the fact that it was not proved through the concerned Drawing and Disbursing Officer or any official maintaining the original provident fund records. It was also elicited during cross-examination that the document bore the initials "DA/ED-4" and not those of the divisions where the workman claimed to have been posted. Similar deficiencies are discernible in the provident fund records relied upon by the remaining workmen. In the absence of proof through the competent authority maintaining the statutory records, such documents cannot be regarded as conclusive proof of lawful appointment.

54. The salary records relied upon by the workmen also do not carry the matter any further. In the *Bhanwar Pal Singh* batch, the salary records proved through WW-10, Sh. Ram Kishan Nain, Clerk of Eastern Division-9, DDA, pertain only to the period November, 1988 to September, 1989. Accordingly, even the witness summoned by the workmen establishes nothing with regard to the period between 1982 and 1985. These records establish, at the highest, that wages were disbursed after the workmen had already come to be reflected in the records of the concerned division. They do not establish the manner in which the workmen entered service in 1982 or the circumstances in which they allegedly came to be regularised in 1985.

55. Learned counsel appearing for the workmen urged, with particular emphasis in the context of the *Bhanwar Pal Singh batch*, that MW-1 Sh. Ashok Dhingra, Executive Engineer, had admitted in cross-examination that



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salary was drawn by the workmen from the DDA for the period 1985 to 1990, and that the accounts of the DDA for the said period had been audited. It was contended that if bogus employees had indeed been drawing salaries, the audited accounts would necessarily have disclosed a discrepancy, and the absence of any such discrepancy amounted to an admission in favour of the workmen. This submission cannot be accepted. The admission of MW-1 was that salary was drawn from 1985 that is, from a period after the workmen had already entered different divisions of the DDA on the strength of the disputed transfer orders. Payment of salary from 1985 onwards is entirely consistent with DDA's own case that certain individuals managed to enter its establishments on the basis of forged documents and continued to draw wages until the forgery was detected in 1989-90. Such payment does not, and cannot, validate the manner of initial entry into service. As for the audit point, MW-1 specifically stated in cross-examination that he did not know whether the auditor had noticed any discrepancy, that is not an admission that no discrepancy existed. It is merely an acknowledgement of the limits of his personal knowledge, having joined the Eastern Division only on 25.06.2009. Payment of salary during a subsequent period cannot, by itself, establish the legality of the initial induction into service.

56. The oral evidence led by the workmen across the connected matters also fails to bridge the evidentiary gap. During cross-examination, several workmen were unable to furnish complete particulars regarding the officers under whom they allegedly worked during the period from 1982 onwards. In the *Bhan Prakash Batch*, references were made only to "Mr. Jain", "Mr. Minocha", "Mr. Sharma" or similar partial descriptions without disclosing the complete names, designations or postings of the officers concerned. In



one instance, in the *Bhanwar Pal Singh batch*, the workman Giri Raj candidly admitted that he did not know the name of any officer under whom he had worked in the relevant division.

57. This Court is conscious that lapse of time may affect human memory. It would, therefore, be wholly inappropriate to reject the testimony of a witness merely because he is unable to recollect every administrative detail after several decades. However, that is not the position obtaining in the present case. The inability of the workmen is not confined to minor particulars. They have failed to identify, with any reasonable degree of specificity, the officers who allegedly appointed them, supervised them or regularised their services during the very period when the employer-employee relationship is stated to have come into existence. Such vague references to officers identified merely by surname could neither enable the Court to verify the assertions nor permit the management to effectively respond by examining the concerned officials. The burden of establishing employment cannot be discharged by furnishing incomplete particulars and thereafter inviting the Court to draw an adverse inference against the management for not examining unidentified officers.

58. The cumulative effect of the evidence, therefore, admits of little ambiguity. There is no documentary evidence regarding the alleged appointment in February, 1982, no contemporaneous record evidencing muster roll service between 1982 and 1985, no document proving the alleged regularisation in 1985, no contemporaneous salary record, attendance register or wage register pertaining to the foundational period, and no satisfactory oral evidence explaining the circumstances in which the workmen entered service. The documentary evidence relied upon by the



workmen substantially commences only after the stage at which they had already entered different divisions of the DDA and, therefore, cannot by itself establish the legality of the initial appointment. The very foundation of the workmen's case thus remains unsupported by cogent evidence.

59. Once this conclusion is reached, the legal consequence follows almost inevitably. The burden which initially rested upon the workmen never stood discharged. Consequently, the onus never shifted upon the management to establish the precise manner in which the workmen entered service or to conclusively prove its allegation of fraud. It is a settled principle that a plaintiff or claimant must succeed on the strength of his own case and not on the weakness of the defence. The workmen having failed to establish the foundational facts upon which their claim rests, the alleged shortcomings in the evidence led by the management cannot, by themselves, entitle them to relief.

60. The Labour Courts, except in *Bhan Prakash Sharma*, appreciated these deficiencies in their proper perspective and consequently held that the workmen had failed to discharge the initial burden resting upon them. This Court finds no perversity, illegality or jurisdictional error in such appreciation.

ISSUE 3: WHETHER THE AWARD DATED 07.12.2010 PASSED IN BHAN PRAKASH SHARMA SUFFERS FROM PERVERSITY WARRANTING INTERFERENCE UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION

61. Having held that the workmen failed to discharge the initial burden of establishing their lawful induction into the service of the DDA, this Court now proceeds to examine the correctness of the award dated 07.12.2010



passed by the learned Presiding Officer, Labour Court-XIX in *Bhan Prakash Sharma*, which alone has taken a view contrary to all the remaining Labour Courts.

62. It is trite that while exercising jurisdiction under Articles 226 and 227 of the Constitution, this Court does not sit as a court of appeal over awards rendered by Labour Courts. Re-appreciation of evidence merely because another view is possible is impermissible. Interference is justified only where the findings recorded are perverse, based on no evidence, founded upon inadmissible material, or suffer from manifest errors of law apparent on the face of the record. The Constitution Bench of the Supreme Court in ***Syed Yakooob v. K.S. Radhakrishnan***, AIR 1964 SC 477, authoritatively held that though the High Court cannot substitute itself as an appellate forum, it would nevertheless be justified in exercising certiorari jurisdiction where findings are vitiated by manifest errors of law apparent on the face of the record or where material evidence has either been ignored or misconstrued. It is on these well-settled parameters that the award in *Bhan Prakash Sharma* is required to be examined.

63. As noticed hereinbefore, the said award constitutes the solitary exception amongst the several awards rendered in relation to workmen claiming appointment under the same set of circumstances. While every other Labour Court proceeded upon the footing that the workmen were first required to establish the legality of their induction into service before seeking the protection of the Industrial Disputes Act, the learned Labour Court-XIX adopted a fundamentally different approach.

64. A careful reading of the impugned award demonstrates that the learned Labour Court proceeded on a legal premise fundamentally different



from that adopted in the remaining connected matters. Instead of first examining whether the workmen had discharged the initial burden of proving their lawful appointment, the Labour Court proceeded to examine whether the management had succeeded in proving its allegation that the appointments were founded on forged documents. The focus of the enquiry thus shifted from the workmen's case to the management's defence.

65. Such an approach, is contrary to the settled principles governing burden of proof discussed hereinabove. The failure of the management to conclusively establish fraud could not, by itself, relieve the workmen of the obligation to prove the legality of their own induction into service. As the initial burden to prove the existence of employer-employee relationship was on the workman and the burden to prove employment by fraud would shift on the management only after initial burden is discharged by the workmen. The workmen could succeed only on the strength of their own evidence and not on the perceived weakness of the management's case.

66. The learned Labour Court further appears to have treated subsequent departmental records, including salary records, provident fund entries and other service-related documents, as sufficient proof of lawful appointment. However, as already discussed, these documents merely evidence that the workmen came to be reflected in certain departmental records after the disputed transfer orders. They do not establish how the workmen initially entered service in 1982 or how they came to be regularised in 1985. The distinction between proof of subsequent continuance in service and proof of lawful induction into service is fundamental and, in the opinion of this Court, was overlooked by the learned Labour Court.

67. The direction permitting the DDA to reinstate the workmen and



thereafter hold a departmental enquiry also proceeds on an assumption that a valid employer–employee relationship already stood established. Such an assumption could not have been made in the absence of proof regarding the very appointment of the workmen. A departmental enquiry presupposes the existence of a lawful contract of employment. Where that foundational relationship itself remained unproved, the question of directing reinstatement solely for the purpose of holding a disciplinary enquiry did not arise.

68. The Labour Court also appears to have attached considerable significance to the absence of conviction in the criminal proceedings and the inability of the management witnesses to conclusively establish forgery. Neither circumstance could dispense with the workmen's obligation to independently prove their appointment before the Labour Court. Criminal proceedings and industrial adjudication operate in different fields and are governed by different standards of proof. The absence of a criminal conviction cannot, therefore, be treated as proof of a valid appointment. In ***Kishan Singh (Dead) through LRs. v. Gurpal Singh***, AIR 2010 SC 3624, the Supreme Court reiterated that findings recorded in criminal proceedings neither conclude nor govern civil proceedings and vice versa, the standard of proof in the two jurisdictions being materially different. Thus, even assuming that the criminal proceedings did not culminate in conviction, such circumstance does not dispense with the obligation resting upon the workmen to independently establish their lawful appointment before the Labour Court.

69. Equally untenable is the contention founded upon Section 25F of the Industrial Disputes Act. A careful reading of the pleadings as well as the



evidence led by the workmen reveals that their consistent case was that they were regular and permanent employees of the DDA. They neither pleaded nor sought to establish that they had completed 240 days of continuous service during the twelve calendar months immediately preceding the alleged termination. No issue was framed on that basis, nor was any evidence led with a view to establish compliance with the statutory requirement. Consequently, the question of examining alleged non-compliance with Section 25F does not arise.

70. Even otherwise, the protection contained in Section 25F presupposes that the claimant has established his status as a workman whose services have been retrenched by the employer. Where the foundational employer-employee relationship itself remains unproved, the provisions relating to retrenchment cannot be invoked in isolation. The issue of compliance with Section 25F, therefore, becomes wholly academic once the workmen fail to establish the existence of a lawful employment relationship.

71. For all the aforesaid reasons, this Court is of the considered opinion that the award dated 07.12.2010 passed by the learned Labour Court-XIX suffers from a manifest error in the application of the settled principles governing burden of proof and appreciation of evidence. By treating post-induction departmental records as sufficient proof of lawful appointment, by overlooking the complete absence of evidence relating to the period between 1982 and 1985, and by effectively requiring the management to disprove the workmen's case before the workmen had discharged their own burden, the learned Labour Court adopted a legal approach contrary to the law consistently laid down by the Hon'ble Supreme Court. The findings recorded therein, therefore, cannot be sustained.



72. The remaining awards, however, stand on an entirely different footing. A perusal thereof demonstrates that the concerned Labour Courts correctly appreciated that the initial burden rested upon the workmen and proceeded to examine whether such burden had been discharged by cogent evidence. Upon finding that the evidence relating to the alleged appointment and regularisation was wholly deficient, the references came to be rejected. This Court finds no perversity, patent illegality or jurisdictional error in the approach adopted by those Labour Courts. Their conclusions are supported by the material available on record and do not warrant interference in the exercise of supervisory jurisdiction.

73. It is equally necessary to observe that the Court is not required, in the facts of the present case, to record any positive finding regarding the allegations of fraud or forgery levelled by the management. Such allegations constitute the defence set up by the DDA. The adjudication of the present petitions does not turn upon whether the management succeeded in proving every circumstance relied upon in support of that defence. The petitions can be effectively decided on the anterior and more fundamental ground that the workmen themselves failed to establish the essential facts giving rise to the employer-employee relationship asserted by them. Once that conclusion is reached, the necessity of entering into a detailed examination of the allegations of fraud substantially diminishes.

74. The Court is also conscious that industrial jurisprudence ordinarily leans in favour of protecting workmen against arbitrary deprivation of livelihood. However, the liberal approach consistently adopted in industrial adjudication does not authorise the Court to dispense with proof of facts which constitute the very basis of the claim. Sympathy, howsoever genuine,



cannot replace evidence. The beneficial object of labour legislation cannot be extended to the point where the Court presumes the existence of an employer-employee relationship despite the complete absence of contemporaneous evidence relating to the pleaded appointment and regularisation.

CONCLUSION:

75. Having examined the entire material on record, this Court is satisfied that the workmen have failed to establish, by cogent and reliable evidence, that they were lawfully appointed by the DDA in February, 1982, that they continuously worked on muster rolls till 1985 or that they were thereafter regularised by the competent authority. The complete absence of contemporaneous records relating to this crucial period, the failure to produce any document evidencing regularisation, the inability of the documentary evidence relied upon by the workmen to bridge the evidentiary gap relating to the foundational period and the deficiencies noticed in the oral evidence cumulatively lead to the irresistible conclusion that the foundational employer-employee relationship pleaded by the workmen has remained unproved.

76. Consequently, the learned Labour Courts which dismissed the references cannot be said to have committed any jurisdictional error, perversity or patent illegality warranting interference under Articles 226 and 227 of the Constitution. Their approach is consistent with the settled principles laid down by the Hon'ble Supreme Court governing burden of proof in industrial disputes and discloses a proper appreciation of the evidence available on record.

77. The award dated 07.12.2010 passed by the learned Labour Court-XIX



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in *Bhan Prakash Sharma*, however, cannot be sustained. The learned Labour Court proceeded on the erroneous premise that the burden shifted upon the management merely because the workmen had produced certain departmental records pertaining to a subsequent period. In doing so, it overlooked the complete absence of evidence regarding the alleged appointment in 1982 and regularisation in 1985, treated documents incapable of proving lawful induction into service as sufficient proof of employment and effectively required the management to disprove the workmen's case before the workmen had discharged their own burden. The award is, therefore, vitiated by a manifest error in the application of settled legal principles and consequently suffers from perversity warranting interference in the exercise of supervisory jurisdiction.

78. For the aforesaid reasons, W.P.(C.) No. 3938/2011 preferred by the Delhi Development Authority is liable to be allowed. The award dated 07.12.2010 passed by the learned Labour Court-XIX in LIR No. 574/2006 is accordingly set aside.

79. W.P.(C.) Nos. 1594/2007, 6900/2012, 2858/2015, 612/2015, 8086/2016 and 5304/2023, preferred by the respective workmen challenging the awards dismissing their claims, are devoid of merit and are accordingly dismissed.

80. The pending applications, if any, also stand disposed of. There shall be no order as to costs.

**SHAIL JAIN
JUDGE**

JULY 27, 2026/dg