$~2 to 4

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

% Date of Decision: 07.08.2026

\# **CNR No. DLHC011509072018**

\+ **W.P.(C) 10074/2018**

HARKESH & ORS .....Petitioners

Through: Ms. Meghna De, Mr.Siddharth Sapra, and Mr.Tusshay Singh, Advocates

versus

INDIA TRADE PROMOTION ORGANIZATION & ANR .....Respondents

Through: Mr. Rajinder Wali and Ms.Shivani Gupta, Advocates for Respondent No. 1/ITPO
Mr. Arnindan Mukherjee and Ms. Khushi Cheetei, Advocates for Respondent No. 2

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\# **CNR No. DLHC013245522018**

\+ **W.P.(C) 10086/2018**

SHRIRAM VED & ORS .....Petitioners

Through: Ms. Meghna De, Mr.Siddharth Sapra, and Mr.Tusshay Singh, Advocates

versus

INDIA TRADE PROMOTION ORGANIZATION & ANR .....Respondents

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Through: Mr. Rajinder Wali and Ms.Shivani Gupta, Advocates for Respondent No. 1/ITPO
Mr. Arnindan Mukherjee and Ms. Khushi Cheetei, Advocates for Respondent No. 2

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CNR No. DLHC013245492018

\+ **W.P.(C) 10088/2018**

SMT. LAXMI AND ORS. .....Petitioners

Through: Ms. Meghna De, Mr.Siddharth Sapra, and Mr.Tusshay Singh, Advocates

versus

M/S INDIA TRADE PROMOTION ORGANIZATION AND ANR. .....Respondents

Through: Mr. Rajinder Wali and Ms.Shivani Gupta, Advocates for Respondent No. 1/ITPO
Mr. Arnindan Mukherjee and Ms. Khushi Cheetei, Advocates for Respondent No. 2

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The three instant writ petitions are being disposed of *vide* this common judgment as they arise out of similar references decided by the learned Presiding Officer, Labour Court-XI, *Karkardooma*

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Courts, involving identical claims of illegal termination made by the petitioners/workmen, who are former *Safai Karamcharis* (Sweepers), against respondent/management 1, *M/s. India Trade Promotion Organization*, and respondent/management 2, *M/s. Sulabh International Delhi*, regarding their engagement at *Pragati Maidan*, *New Delhi*.

2. The workmen are challenging the awards passed by the Labour Court insofar as their claims for reinstatement with full back wages, bonus, and payment for weekly/yearly leaves were denied, while granting them monetary compensation instead.

3. The three disputes were referred to the Labour Court in terms of three largely identical references by the Secretary (Labour), Govt. of NCT of *Delhi*, asking whether the services of the workmen were terminated illegally and/or unjustifiably, and if so, to what sum of money as monetary relief along with consequential benefits they are entitled, to what other relief they are entitled, and what directions are necessary in this respect.

4. Briefly stated, the workmen claimed before the Labour Court that they were continuously working on the post of 'Sweeper/*Safai Karamchari*' with their last drawn salary being Rs.2,700/- per month since January 1996. They asserted that they were engaged to perform sweeping and cleaning work at *Pragati Maidan, New Delhi*, a premises owned and maintained by management 1. They alleged that management 1 got this work executed through contractor management 2, which had deployed them at the premises of management 1. The workmen submitted that the work of *Safai*

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Karamchari was of a permanent nature, but they were deprived of consequent statutory legal benefits. They asserted that upon raising an industrial dispute through their union before the Labour Office for parity of pay with the permanent employees of management 1, both the managements in collusion with each other wrongfully terminated their services on 15.01.2002/31.01.2002 without serving any notice, charge-sheet, or paying their legal dues.

5. Management 1 contested the claim by pleading that it had no direct employer-employee relationship with the claimants. It submitted that conservancy work at *Pragati Maidan* was entrusted to management 2 on a nomination basis via yearly agreements executed between 1996 and 2002. It maintained that the claimants were never in its employment and that management 1 never paid them any wages directly.

Management 2 contested the claim by stating that it is a non-profit voluntary social organization engaged in social work. It submitted that it is not an "Industry" as defined under Section 2(j) of the Industrial Disputes Act, 1947 (hereinafter the "ID Act") and the claimants were social workers/volunteers rendering voluntary social services on an honorarium or pocket expenses, free to render services as and when they so like, without any employer-employee relationship.

6. In the aforesaid backdrop, issues were framed by the Labour Court regarding direct relationship of employer and employee between the workmen and management 1, whether the claims were maintainable, whether the workmen fell within the definition of

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"workman" under the ID Act, terms of reference, and relief.

7. The Labour Court decided the issue of employer-employee relationship between management 1 and the workmen in favour of management 1. *Qua* the issue of maintainability and status of management 2, the Labour Court held management 2 to be an "Industry" and the claimants to be "workmen" under the ID Act. The Labour Court further held that management 2 had illegally terminated the services of the workmen in violation of Section 25F of the ID Act.

8. As for relief, while denying reinstatement and back wages, the Labour Court awarded lump-sum monetary compensation to the proven workmen along with litigation costs of Rs.10,000/- payable to each workman by management 2. In **LIR No. 4853/16**, proven workmen were awarded lump-sum compensation of Rs.1,50,000/- each; in **LIR No. 4852/16**, proven workmen were awarded compensation of Rs.1,50,000/- each, except *Sh. Sri Ram-II* who was awarded Rs.1,00,000/-, *Sh. Raju-I* and *Sh. Sunil* who were awarded Rs.75,000/- each, and *Sh. Ravinder* who was awarded Rs.25,000/-; and in **LIR No. 4851/16**, proven workmen were awarded compensation of Rs.1,50,000/- each, except *Sh. Devender* who was awarded Rs.75,000/-. Aggrieved by the denial of reinstatement, full back wages, bonus, and leave benefits, the workmen have preferred the present writ petitions.

9. Learned counsel for the workmen contends that the Labour Court erred in denying reinstatement and full back wages once the termination was categorically held to be illegal and in violation of

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Section 25F of the ID Act. It is submitted that the lump-sum compensation awarded is on the very lower side and that the Labour Court failed to consider that the workmen gave sincere services and remained unemployed post-termination.

10. Before proceeding further, this Court takes note of the limited 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*[1]). The said principle was reiterated by the Supreme Court in *International Airport Authority of India Vs. International Air Cargo Workers Union*[2]. This Court has also considered the scope of writ jurisdiction in *Ritz Theatre Private Limited Vs. Ramesh Chandra*[3].

11. The Labour Court held that the workmen had failed to establish any direct employer-employee relationship with management 1, observing that the workmen were deployed through management 2, and there was no pleading or proof on record that the contract between management 1 and management 2 was sham or bogus.

12. Insofar as the termination by management 2 is concerned, the workmen were held to be "workmen" under Section 2(s) of the ID

[1] 1963 SCC OnLine SC 24
[2] (2009) 13 SCC 374
[3] 2024 SCC OnLine Del 3633

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Act upon observing that they worked for fixed 8-hour shifts in uniforms and were paid monthly wages linked directly to minimum wages prescribed by the Govt. of NCT of *Delhi*. Holding that their services were terminated without complying with Section 25F of the ID Act, their termination from service was held to be illegal.

13. Turning to the relief granted, the Labour Court declined reinstatement and full back wages on the ground that an order for reinstatement was not likely to result in cordial industrial relations and considering job opportunities available in a metropolitan city like *Delhi*, and instead awarded monetary compensation along with litigation costs. A gainful reference may be made to *Jagbir Singh Vs. Haryana State Agriculture Mktg. Board*[4], wherein the Supreme Court clarified that reinstatement with back wages is not automatic, and in appropriate cases, compensation may be granted instead, observing as under:

> "*7. It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.*"

14. Similarly, the Supreme Court in *Bharat Sanchar Nigam*

[4] (2009) 15 SCC 327

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Limited Vs. Bhurumal[5] observed that in cases where termination is found to be illegal due to procedural defects, compensation in place of reinstatement may be appropriate:

> "*33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or mala fide and/or by way of victimisation, unfair labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.*
>
> *34. The reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily-wage basis and even after he is reinstated, he has no right to seek regularisation [see State of Karnataka v. Umadevi (3) [(2006) 4 SCC 1: 2006 SCC (L&S) 753]]. Thus when he cannot claim regularisation and he has no right to continue even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.*
>
> *35. We would, however, like to add a caveat here. There may be cases where termination of a daily-wage worker is found*

[5] (2014) 7 SCC 177

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> *to be illegal on the ground that it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularised under some policy but the workman concerned terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.*"

15. In the present cases, the events relate back to 1996-2002, and over two decades has elapsed since the termination of the workmen's services. Taking into account the nature of the workmen's engagement, their age, the lengths of service rendered, this Court is of the considered opinion that the quantum of compensation determined by the Labour Court is just, fair, and reasonable, and cannot be termed as perverse or arbitrary so as to warrant interference under writ jurisdiction.

16. Accordingly, the present writ petitions are dismissed.

(MANOJ KUMAR OHRI)
JUDGE

AUGUST 07, 2026
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