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

+ W.P.(C) 7238/2018

MD. AYUB

..... Petitioner

Through: Mr. K. B. Hina, Adv.

versus

M/S TARA INTERNATIONAL

..... Respondent

Through: Mr. Arun Francis, Adv.

+ W.P.(C) 7260/2018

MD. KASIM

..... Petitioner

Through: Mr. K. B. Hina, Adv.

versus

M/S TARA INTERNATIONAL

..... Respondent

Through: Mr. Arun Francis, Adv.

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Date of Decision: 13th October, 2022.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. Present writ petitions have been filed challenging the order dated 17.03.2018, whereby, the learned Labour Court – V, Dwarka Courts, Delhi has rejected the claim and decided the matter against the petitioners/workmen predominantly on the ground that the petitioners/workmen had failed to prove the relationship of employer-employee between the parties.

W.P.(C) 7238/2018 &
W.P.(C) 7260/2018

Page 1 of 4

2. Learned counsel for the petitioners has relied upon the report from the Office of the Assistant Labour Commissioner (South). Learned counsel for the petitioners submits that as per the report, in pursuance to the complaint made by the General Secretary, Delhi Hosiery Worker Union, the Labour Inspector conducted an inspection in the premises of the management on 11.07.2005. Learned counsel for the petitioners submits that at the time of the inspection, 35 workmen including the petitioners were found working in the production wing of the management.

3. Learned counsel for the petitioners further submits that the learned Trial Court has fallen into a grave error by ignoring this document and *inter alia* reaching to the conclusion that the petitioners/workmen have failed to prove the relationship of employer-employee between the parties. Learned counsel for the petitioners submits that even in para 28 of the impugned award, the learned Labour Court has fallen into a grave error by *inter alia* observing that there is no explanation as to how the present workmen name has appeared as being present in the premises as a worker on 11.07.2005 whereas, as per the claim, the workmen was terminated on 12.07.2005 and the Labour Inspector visited the management premises only after 13.07.2005.

4. Learned counsel for the petitioners submits that this observation of the learned Labour Court is totally wrong and contrary to the material on record. Learned counsel for the petitioners submits that as per the report, the learned Labour Inspector inspected the premises on 11.07.2005. It has been submitted that in view of this error, the impugned order is liable to be set aside.

5. Learned counsel for the respondent has submitted that the learned Labour Court has appreciated the entire material on record and on the basis of the evidence led by the parties reached to the right conclusion that the petitioners/workmen had failed to prove the relationship of employer–employee between the parties. Learned counsel for the respondent has submitted that there is no material on record to set aside the order of the learned Labour Court.

6. It is settled proposition of law that this Court while exercising the writ jurisdiction cannot sit as an Appellate Court over the award passed by the learned Labour Court. The legislature has not provided any appeal to be filed against the order passed by the learned Labour Court. Thus, the learned Labour Court is the final arbiter of the facts. The award passed by the learned Labour Court can be set aside only if there is perversity or manifest illegality in the order of the learned Labour Court. This Court cannot substitute its opinion with the opinion reached by the learned Labour Court. Even this Court cannot go into the insufficiency of evidence. The jurisdiction of the writ court has clearly been **held** in the judgment of this Court in ***Parshuram Shah vs. Govt. Of NCT of Delhi*** : 2008 SCC Online Del 1186, whereby, it has been held as under:-

“7. The arguments advanced on behalf of the petitioner workman, if entertained, would amount to interfering with the findings of facts as arrived at by the Labour Court after due appreciation of evidence. Law is well settled in this respect that the Labour Court is the final court of facts and it is not appropriate for this Court, while exercising jurisdiction under Article 226 of the Constitution, to reappreciate evidence or to interfere with the findings of facts as arrived at by the

Labour Court. The jurisdiction exercised by the writ court under Article 226 is supervisory and not appellate in nature. Reappraisal of evidence without sufficient reason in law, to arrive at a finding of fact contrary to those arrived at by the Subordinate Court, is not the intent of exercising the powers of judicial review.”

7. I consider that there is no illegality in the order of the learned Labour Court. The petitioner/workman has failed to prove any evidence or bring any material on record to prove the relationship of employer-employee between the parties.

8. Hence, the present writ petitions are, accordingly, dismissed.

DINESH KUMAR SHARMA, J

OCTOBER 13, 2022
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