



2024:DHC:1180



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

% **Date of order: 7th February, 2024**

+ **W.P.(C) 10460/2018**

OXFORD INDUSTRIES Petitioner

Through: **Mr. Krishna Dev Pandey, Advocate**

versus

MANOJ KUMAR DUBEY Respondent

Through: **Mr. Awadhesh Kumar, Advocate**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant petition under Article 226 read with Article 227 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:

- “a. Allow the writ petition by issuing the writ of mandamus and certiorari or any other appropriate writ for setting aside the impugned Ex-Parte Award dated 09.08.2016 passed by the Court of Ms. Renu Bhatnagar, Presiding Officer, Labour Court No. IX, Karkardooma Court, Delhi that the workman is entitled to be reinstated in the service with 50% back wages and stay the operation of said award and the notices dated 16.02.2018 and 28.03.2018 vide file No.273/SDM/SV/Labour/2017/370; and file No.273/Labour/SDM/SV/2017/608 Passed By Office Of SDN (SaraswatiVihar)/Asstt. Collector Grade -I, Room No.7, Old Middle School Building Complex, Rampura Delhi-110035.*
- b. Pass such any other/further orders as this Hon'bie court may*



deem fit and proper in the facts and circumstances of the case to meet the ends of justice.”

2. The relevant facts necessary for the adjudication of the instant petition are as follows:

- a) The respondent workman had been discharging duties with the petitioner at the post of ‘Munim’ since the year 1998, at a last drawn salary of Rs. 10,500/-.
- b) During the period of respondent’s employment, the petitioner management failed to provide him with certain corollary benefits such as overtime pay, appointment letter, minimum wages, attendance card, pay slip, identity card, yearly casual leaves, leave encashment, ESI Card, etc, despite repeated demands.
- c) The management then proceeded to terminate the respondent on 24th April 2014, due to the demands made by the workman and also withheld the salaries owed to him for the month of March, 2014.
- d) Subsequently, the respondent workman filed a complaint dated 5th June, 2014 before the Conciliation Officer; however, the workman was neither reinstated nor was he paid his dues.
- e) In light of the aforesaid termination and the consequent withholding of the salary, the respondent workman sent a demand notice dated 7th July, 2014, however, the petitioner management did not respond to the same.



- f) On 16th December, 2014 the Office of the Joint Labour Commissioner, Nimri Colony, Ashok Vihar, referred the dispute to the Labour Court No-IX for adjudication of the respondent's dispute.
- g) Before the learned Labour Court, the respondent workman claimed reinstatement with full back-wages and notice of the same was sent to the petitioner management despite of which they failed to appear or file a written statement in the said matter and hence vide order dated 18th December, 2015 the defence of the management was struck off and the case was fixed for the evidence of the respondent workman.
- h) Thereafter, the respondent workman tendered his evidence however, there was no appearance on behalf of the petitioner management, and vide order dated 6th June, 2016, the learned Labour Court closed the evidence for the petitioner management and fixed the case for final arguments.
- i) Subsequently, vide award dated 9th August, 2016 the learned Labour Court decided the dispute *ex-parte* in favour of the respondent workman, thereby, directing the petitioner management to deposit 50% back-wages from the date of his termination till the date of his reinstatement within one month of the award being published.
- j) Aggrieved by the aforesaid award, the petitioner management has preferred the instant petition.



3. The learned counsel on behalf of the petitioner submitted that the award dated 9th August, 2016, passed by the learned Labour Court, is in violation of the rights of the petitioner and the same has been passed without taking into consideration the entire facts and circumstances.

4. It is submitted that the learned Labour Court violated the rights and principles of natural justice of the petitioner by hearing the case of the respondent *ex-parte*, without giving the petitioner a fair opportunity to present their side of the case.

5. It is submitted that the petitioner was not aware of any legal proceedings since it did not receive any summons, statement of claim, or documents from the learned Court below.

6. It is submitted that the learned Labour Court struck off the petitioner's defence on 18th December, 2015, based on a report from the process server dated 30th October, 2015, despite the petitioner not being effectively served with any notice.

7. It is submitted that the petitioner only became aware of the case when they received a notice dated 16th February, 2018, vide file No. 273/SDM/SV/Labour/2017/370, issued by the Office of the SDM (Saraswati Vihar)/Assistant Collector Grade-I, by way of which, the petitioner management was informed that an *ex-parte* award had been passed by the learned Labour Court.

8. It is submitted that the Office of the Joint Labour Commissioner (Dist. North-West) in Nimri Colony, Ashok Vihar, Phase-IV, Delhi-110052, referred the matter to the appropriate Labour Court for adjudication on 16th



February, 2014. However, this action was taken without acknowledging the fact that no notice had been served upon the petitioner as a result of which the petitioner was unaware about the proceedings before the learned adjudicating authority.

9. It is submitted that the petitioner did not receive the demand notice dated 7th July, 2014, issued by the respondent and hence the petitioner was unaware about the dispute raised by the respondent.

10. It is submitted that the facts presented in the statement of claim, the demand notice, the evidence filed by the respondent, and the story provided by the Labour Inspector are all false and fabricated assertions.

11. It is submitted that the respondent workman, was initially working at the post of 'helper' and on 22nd April, 2017 he verbally informed the petitioner about travelling to his village and took an advance payment of Rs. 7,000/- from the petitioner.

12. It is submitted that vide letter dated 6th August, 2014, issued by the Labour Inspector and the Office of the Deputy Labour Commissioner, the petitioner was specifically directed to return to work, however, the petitioner failed to report to his duty till date.

13. It is submitted that the respondent workman was unwilling to re-join the previous position as a helper with the petitioner management. Despite offers made by the management, the respondent refused to resume duties as a helper and expressed willingness to join only the post of 'Munim', and not as a helper.

14. In light of the foregoing submissions, it is prayed that the instant



petition may be allowed, and reliefs may be granted as prayed for.

15. *Per contra*, learned counsel appearing on behalf of the respondent vehemently opposed the instant petition, submitting to the effect that the learned Labour Court has judiciously and fairly passed the impugned award, after taking into consideration the entire facts pertaining to the dispute.

16. It is submitted that the prayer clause of the instant petition is wrong and inaccurate, as the award passed by the learned Labour Court is well-reasoned, justified, and equitable in its entirety and therefore, the prayer clause of the petitioner's petition is inaccurate since there are no remaining issues for adjudication by this Court, and there is no need to alter or modify the said award and hence, there is no requirement for this Court to invoke extraordinary jurisdiction.

17. It is submitted that the petitioner has deliberately concealed important facts as the claims made in the present petition are vexatious, frivolous, mischievous, ill-motivated, and malicious.

18. It is further submitted that a notice of filing of the claim was sent to the management. However, the management did not appear or file a written statement in response to the claim. Consequently, by order dated 18th December 2015, the defence of the management was struck off, and the case was scheduled for the evidence of the workman.

19. It is submitted that the respondent workman worked for 12 hours per day, however, the petitioner management failed to compensate the respondent for overtime work. Moreover, the petitioner management failed to provide essential legal entitlements such as an appointment letter,



minimum wages, attendance card, pay slip, identity card, yearly and casual leave, and leave encashment despite requests from the respondent.

20. It is submitted that upon making the aforesaid demands, the petitioner management became displeased and consequently terminated the respondent's service on 24th April, 2014, and withheld his salary from 1st April, 2014 to 23rd April, 2014.

21. It is submitted that despite diligent efforts to secure alternative employment, the respondent is still unable to secure a job and moreover, the respondent is willing to rejoin his services with the petitioner.

22. Therefore, in light of the foregoing submissions, the learned counsel appearing on behalf of the respondent prayed that the instant petition, being devoid of any merits, may be dismissed.

23. Heard the learned counsel for the parties and perused the record.

24. The petitioner has approached this Court seeking setting aside of the impugned award dated 9th August, 2016, passed by the learned Labour Court in favour of the respondent workman, whereby, the petitioner management was directed to reinstate the workman along with 50% back wages and all the consequential benefits. The relevant paragraphs of the impugned award are reproduced herein below:

“Hence, it is hereby ordered that the workman is entitled to be reinstated in service with 50% back wages and consequential benefits from the date of his termination till date of his reinstatement. The management is directed to deposit 50% back wages from the date of his termination till the date of his reinstatement within one month from the date of publication of



this award failing which the amount of back wages shall carry the simple interest at the rate of 8% per annum from the date of award till realization.”

25. By way of the impugned award, the learned Labour Court opined that the workman is entitled to be reinstated along with 50% back wages and all the consequential benefits. The findings arrived at, have been reasoned by analysing *inter alia* that the workman was working since March, 1989 with the management as “*Munim*” and upon demanding benefits such as overtime etc., he was terminated w.e.f. 24th April, 2014, without any notice, pay or retrenchment compensation and the same was held to be in violation of the provisions of Section 25 F of the Industrial disputes Act, 1947. It was also proved before the learned Court below that he had worked for more than 240 days with the management in the year preceding the date of his termination.

26. At this stage, it is imperative to understand the scope of a writ Court’s jurisdiction in interfering with the labour or workman dispute which has been already adjudicated by a competent forum. The Hon’ble Supreme Court in a catena of cases has reiterated time and again that the Labour Court/Industrial Tribunal is a final Court of facts in the disputes between a labour or workman and an employer or an industry.

27. The Hon’ble Supreme Court in ***Management of Madurantakam Coop. Sugar Mills Ltd. v. S. Viswanathan***, (2005) 3 SCC 193, dealt with the aspect of perversity by the Labour Court in appreciation of facts wherein, it observed, that if on the face of the record, the High Court observes that the



findings of the Labour Court are not based upon some legal evidence, it may go into the question of fact adjudicated and concluded by the Labour Court and exercise its powers vested under Article 226 of the Constitution of India. Whereas, in the event, the findings are based upon legal evidence and on the face of the record it seems no error has occurred, the writ Court shall not go into the factual disagreements and the findings that were based on those disputes. The relevant paragraphs of the said judgment have been reproduced below:

“12. Normally, the Labour Court or the Industrial Tribunal, as the case may be, is the final court of facts in these types of disputes, but if a finding of fact is perverse or if the same is not based on legal evidence the High Court exercising a power either under Article 226 or under Article 227 of the Constitution can go into the question of fact decided by the Labour Court or the Tribunal. But before going into such an exercise it is necessary that the writ court must record reasons why it intends reconsidering a finding of fact. In the absence of any such defect in the order of the Labour Court the writ court will not enter into the realm of factual disputes and finding given thereon. A consideration of the impugned order of the learned Single Judge shows that nowhere has he come to the conclusion that the finding of the Labour Court was either perverse or based on no evidence or based on evidence which is not legally acceptable. Learned Single Judge proceeded as if he was sitting in a court of appeal on facts and item after item of evidence recorded in the domestic enquiry as well as before the Labour Court was reconsidered and findings given by the Labour Court were reversed. We find no justification for such an approach by the learned Single Judge which only amounts to substitution of his subjective satisfaction in the place of such satisfaction of the Labour Court.”



28. Further, in the case titled *Indian Overseas Bank v. I.O.B. Staff Canteen Workers' Union*, (2000) 4 SCC 245, the Hon'ble Supreme Court on the aspect of finding of the facts without evidence, observed that if on the facts proved, the findings recorded by the Tribunal are justified and could not be considered to be based upon "no evidence", there is no justification for the High Court in exercising writ jurisdiction to interfere with the same. Similar findings have also been asserted in *Iswarlal Mohanlal Thakkar v. Paschim Gujarat Vij Co. Ltd.*, (2014) 6 SCC 434.

29. With reference to the cases discussed above, it can be concluded that, *firstly*, a High Court shall exercise its writ jurisdiction sparingly and shall act in a supervisory capacity and not adjudicate upon matters as an appellate court. *Secondly*, in matters wherein the Industrial Tribunal has adjudicated after having gone into the details of both fact and law while carefully adducing the evidence placed on record, the High Court shall not exercise its writ jurisdiction to interfere with the award when *prima facie* the Court can conclude that no error of law has occurred. *Thirdly*, judicial review involves a challenge to the legal validity of the decision. It does not allow the Court of review to examine the evidence with a view to forming its own view about the substantial merits of the case. The reasoning must be cogent and convincing.

30. In view of the observations stated above, it can be concluded that the jurisdiction of a High Court to decide such petitions is limited to a supervisory capacity and not as an appellate Court. This Court is further of



the view that as the scope of its writ jurisdiction is limited and is to be exercised sparingly, this Court cannot undertake an exercise, impermissible for this Court in exercising the writ jurisdiction, by liberally re-appreciating the evidence and drawing conclusions on pure questions of fact, as this Court is not in an appellate jurisdiction over the awards passed by the learned Industrial Tribunal.

31. At this stage, this Court deems it appropriate to chart out the aspect of reinstatement of a workman by an Industrial Tribunal/Labour Court, considering the same is under challenge in the instant petition.

32. The Hon'ble Supreme Court in case titled ***Bhavnagar Municipal Corpn. v. Jadeja Govubha Chhanubha***, (2014) 16 SCC 130 observed that the High Courts have the discretion to award either reinstatement or backwages depending upon the facts of the case and considering the totality of the circumstances, moreover, reinstatement cannot be awarded automatically. The relevant paragraphs of the judgment are reproduced herein below:

7. It is fairly well-settled that for an order of termination of the services of a workman to be held illegal on account of non-payment of retrenchment compensation, it is essential for the workman to establish that he was in continuous service of the employer within the meaning of Section 25-B of the Industrial Disputes Act, 1947. For the respondent to succeed in that attempt he was required to show that he was in service for 240 days in terms of Section 25-B(2)(a)(ii). The burden to prove that he was in actual and continuous service of the employer for the said period lay squarely on the workman. The decisions of this Court in Range Forest Officer v. S.T. Hadimani [Range



Forest Officer v. S.T. Hadimani, (2002) 3 SCC 25 : 2002 SCC (L&S) 367] , *Municipal Corpn., Faridabad v. Siri Niwas* [*Municipal Corpn., Faridabad v. Siri Niwas*, (2004) 8 SCC 195 : 2004 SCC (L&S) 1062] , *M.P. Electricity Board v. Hariram* [*M.P. Electricity Board v. Hariram*, (2004) 8 SCC 246 : 2004 SCC (L&S) 1092] , *Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan* [*Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan*, (2004) 8 SCC 161 : 2004 SCC (L&S) 1055] , *Surendranagar District Panchayat v. Jethabhai Pitamberbhai* [*Surendranagar District Panchayat v. Jethabhai Pitamberbhai*, (2005) 8 SCC 450 : 2005 SCC (L&S) 1167] and *R.M. Yellatti v. Executive Engineer* [*R.M. Yellatti v. Executive Engineer*, (2006) 1 SCC 106 : 2006 SCC (L&S) 1] unequivocally recognise the principle that the burden to prove that the workman had worked for 240 days is entirely upon him. So also the question whether an adverse inference could be drawn against the employer in case he did not produce the best evidence available with it, has been the subject-matter of pronouncements of this Court in *Municipal Corpn., Faridabad v. Siri Niwas* [*Municipal Corpn., Faridabad v. Siri Niwas*, (2004) 8 SCC 195 : 2004 SCC (L&S) 1062] and *M.P. Electricity Board v. Hariram* [*M.P. Electricity Board v. Hariram*, (2004) 8 SCC 246 : 2004 SCC (L&S) 1092] , reiterated in *RBI v. S. Mani* [*RBI v. S. Mani*, (2005) 5 SCC 100 : 2005 SCC (L&S) 609] . This Court has held that only because some documents have not been produced by the management, an adverse inference cannot be drawn against it.

8. The Labour Court has, in the case at hand, placed reliance upon a xerox copy of a certificate allegedly issued by an officer of the appellant Corporation stating that the respondent was in the employment of the appellant Corporation as a Conductor between 3-10-1987 and 31-3-1989. While it is true that the xerox copy may not be evidence by itself specially when the respondent had stated that the original was with him,



but had chosen not to produce the same yet the fact remains that the document was allowed to be marked at the trial and signature of the officer issuing the certificate by another officer who was examined by the appellant. Strict rules of evidence, it is fairly well-settled, are not applicable to the proceedings before the Labour Court. That being so the admission of the xerox copy of the certificate, without any objection from the appellant Corporation, cannot be faulted at this belated stage. When seen in the light of the assertion of the respondent, the certificate in question clearly supported the respondent's case that he was in the employment of the appellant Corporation for the period mentioned above and had completed 240 days of continuous service. That being so, non-payment of retrenchment compensation was sufficient to render the termination illegal. Inasmuch as the Labour Court declared that to be so it committed no mistake nor was there any room for the High Court to interfere with the said finding especially when the findings could not be described as perverse or without any evidence. The High Court was also justified in directing deletion of the back wages from the award made by the Labour Court against which deletion, the respondent did not agitate either before the Division Bench by filing an appeal or before us.

9. The only question that remains to be examined in the above backdrop is whether reinstatement of the respondent as a Conductor is imperative at this late stage. We say so because the appellant claims to have worked for a period of just about 18 months that too nearly three decades ago. The respondent today may be past fifty if not more. The Transport Department where he was working appears to have been wound up and transport work outsourced. That apart, this Court has in a series of decisions held that the illegality in an order of termination on account of non-payment of retrenchment compensation does not necessarily result in the reinstatement of the workman in service. This Court has, in cases where such



termination is found to be illegal, directed compensation in lieu of reinstatement. We may at this stage refer to some of those decisions.

10. In *Mahboob Deepak v. Nagar Panchayat, Gajraula* [*Mahboob Deepak v. Nagar Panchayat, Gajraula*, (2008) 1 SCC 575 : (2008) 1 SCC (L&S) 239], this Court held that since the appellant had worked only for a short period, interest of justice would be subserved if the direction for reinstatement was modified and compensatory payment of Rs 50,000 in lieu thereof directed to be substituted. Similarly in *Sita Ram v. Moti Lal Nehru Farmers Training Institute* [*Sita Ram v. Moti Lal Nehru Farmers Training Institute*, (2008) 5 SCC 75 : (2008) 2 SCC (L&S) 71], this Court took into consideration the period during which the services were rendered by the workman and instead of reinstatement directed a lump sum payment of Rs 1,00,000 in lieu thereof.

11. In *GDA v. Ashok Kumar* [*GDA v. Ashok Kumar*, (2008) 4 SCC 261 : (2008) 1 SCC (L&S) 1016], this Court made a similar order as is evident from the following passage : (SCC p. 265, paras 21-22)

“21. We are, therefore, of the opinion that the appellant should be directed to pay compensation to the first respondent in stead and in place of the relief of reinstatement in service.

22. Keeping in view the fact that the respondent worked for about six years as also the amount of daily wages which he had been getting, we are of the opinion that the interest of justice would be subserved if the appellant is directed to pay a sum of Rs 50,000 to the first respondent.”

(emphasis supplied)

12. To the same effect is the decision of this Court in *Jagbir Singh v. Haryana State Agriculture Mktg. Board* [*Jagbir Singh v. Haryana State Agriculture Mktg. Board*, (2009) 15 SCC 327 : (2010) 1 SCC (L&S) 545] wherein this Court held



that while awarding compensation in lieu of reinstatement a host of factors should be kept in mind. The Court said : (SCC p. 335, paras 17-18)

“17. While awarding compensation, the host of factors, inter alia, manner and method of appointment, nature of employment and length of service are relevant. Of course, each case will depend upon its own facts and circumstances.

18. In a case such as this where the total length of service rendered by the appellant was short and intermittent from 1-9-1995 to 18-7-1996 and that he was engaged as a daily wager, in our considered view, a compensation of Rs 50,000 to the appellant by Respondent 1 shall meet the ends of justice.”

(emphasis supplied)

13. Reference may also be made to the decision of this Court in Telegraph Deptt. v. Santosh Kumar Seal [Telegraph Deptt. v. Santosh Kumar Seal, (2010) 6 SCC 773 : (2010) 2 SCC (L&S) 309] , wherein this Court referred to the previous decisions on the subject to declare that even when a retrenchment order passed in violation of Section 25-F may be set aside, reinstatement need not necessarily follow as a matter of course. The following passage from the decision is apposite : (SCC p. 777, para 10)

“10. ... ‘14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and a permanent employee.’ (Jagbir Singh case [Jagbir Singh v. Haryana State Agriculture



Mktg. Board, (2009) 15 SCC 327 : (2010) 1 SCC (L&S) 545] , SCC p. 335, para 14)”

(emphasis supplied)

14. To the same effect is the decision of this Court in Incharge Officer v. Shankar Shetty [Incharge Officer v. Shankar Shetty, (2010) 9 SCC 126 : (2010) 2 SCC (L&S) 733] , wherein this Court said : (SCC p. 129, para 7)

“7. We think that if the principles stated in Jagbir Singh [Jagbir Singh v. Haryana State Agriculture Mktg. Board, (2009) 15 SCC 327 : (2010) 1 SCC (L&S) 545] and the decisions of this Court referred to therein are kept in mind, it will be found that the High Court erred in granting relief of reinstatement to the respondent. The respondent was engaged as a daily wager in 1978 and his engagement continued for about 7 years intermittently up to 6-9-1985 i.e. about 25 years back. In a case such as the present one, it appears to us that relief of reinstatement cannot be justified and instead monetary compensation would meet the ends of justice. In our considered opinion, the compensation of Rs 1,00,000 (Rupees one lakh) in lieu of reinstatement shall be appropriate, just and equitable.”

(emphasis supplied)

15. The case at hand, in our opinion, is one such case where reinstatement must give way to award of compensation. We say so because looking to the totality of the circumstances, the reinstatement of the respondent in service does not appear to be an acceptable option. Monetary compensation, keeping in view the length of service rendered by the respondent, the wages that he was receiving during that period which according to the evidence was around Rs 24.75 per day should sufficiently meet the ends of justice. Keeping in view all the facts and circumstances, we are of the view that award of a sum of Rs 2,50,000 (Rupees two lakhs fifty thousand only) should meet the ends of justice.

33. In the instant petition, the petitioner bases his arguments on the



ground that the workman himself abandoned his post after receiving Rs. 7,000/- as advance salary from the petitioner management by stating that he is visiting his village for a short period of time, following which, the respondent workman failed to resume his duties despite a specific offer made vide letter dated 6th August, 2014, before the Labour Inspector asking the respondent workman to report to his duty.

34. A bare perusal of the impugned award makes it apposite that the workman had claimed reinstatement on the basis of his illegal termination which was in total disregard of the provisions under Section 25F of the Industrial Disputes Act, 1947. The learned Labour Court took into account Ex.WW1/1-1/12, which included various documents such as the affidavit tendered by the respondent workman, report of the Labour Inspector, copy of the demand notice, etc., which makes it evident that the workman had been performing his duties to the satisfaction of his superiors until his unilateral termination.

35. The petitioner management has contended that the workman is not eligible for reinstatement to his previous post as the workman himself failed to report to his duty. This Court has observed that the learned Labour Court whilst adjudicating the dispute categorically held that the proceedings before it shall be *ex-parte* as the petitioner management had blatantly ignored the said dispute initiated against it, on account of which the impugned award was passed in the favour of the respondent workman. Moreover, the petitioner has been unable to make out his case as to how there is any illegality with respect to the abovesaid finding. There is nothing on record



which would make this Court inclined to arrive at any conclusion which is to the contrary. The petitioner cannot, at this stage, take the plea that it was unaware about the proceedings before the learned Labour Court.

36. In regard to the above observations made in the impugned award, it is clear that the learned Labour Court has taken into consideration all the evidence including the examination of witnesses and the documents placed on its record. Hence, it held that it is not fair on the part of the employer, i.e., the petitioner management herein, to avoid its liability and deny giving what is legally due to the respondent workman. Therefore, concluding that the workman is entitled to reinstatement and 50% back wages along with all consequential benefits on having been illegally terminated without notice or cause, the learned Court passed the impugned award in favour of the workman.

37. Thus, it can be concluded from the above that the learned Tribunal has addressed each of the issues in detail and thus, concluded to its effect that the benefit of reinstatement as well as 50% back wages shall be extended to the workman from the date of his termination till the date of his actual reinstatement.

38. This Court is of the considered view that, the learned Labour Court has dealt with the issues and has based its reasoning on each of the issues framed by it after having appraised the evidence placed on its record. Thus, in view of the above stated judgments by the Hon'ble Supreme Court, this Court is of the view that the award passed by the learned Labour Court suffers from no infirmity.



39. As per the settled law, under Article 226 of the Constitution of India, High Courts shall intervene with the award passed by a Court below only in cases where there is a gross violation of the rights of a party. A mere irregularity which does not substantially affect the cause of a party shall not be a ground for the Court to intervene with the order passed by the Court below.

40. This Court is of the view that from a bare perusal of the impugned award, evidently no such evidence has been placed before this Court to arrive at a different view than the learned Court below did in the impugned award.

41. This Court discerns no material to establish the propositions put forth by the petitioner as there is no material to characterize the impugned award passed by the learned labour Court as perverse.

42. In view of the above discussion of facts and law, this Court finds no infirmity in the impugned award dated 9th August, 2016, passed by the Presiding Officer, Industrial Tribunal No. IX, Karkardooma Courts, Delhi, in LIR No.3394/16 and the same is, hereby, upheld.

43. Accordingly, the instant writ petition stands dismissed. Pending applications, if any, also stand dismissed.

44. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

FEBRUARY 7, 2024/gs/ds/ryp

Click here to check corrigendum, if any