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

% ***Date of decision: 28th August, 2024***

+ CM(M) 3250/2024, CM APPL. 49143/2024 & CM APPL. 49144/2024

THE MANAGEMENT OF M/S BANWARI LAI CHARITABLE TRUST

.....Petitioner

Through: Mr. Jitin Sahni, Advocate.

versus

SMT SHOBHA

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is Management, defending a claim lodged by the claimant under Section 2A (1) of Industrial Dispute Act, 1947.
2. During course of the proceedings, WW1 i.e. claimant Ms. Shobha filed her affidavit and was cross-examined by the Management on 11th October, 2017 and, thereafter, the learned Trial Court had closed her evidence on enquiry proceedings.
3. Management also led its evidence and it was during that stage that the application was moved by the Management under Order XVIII Rule 17 read with Section 151 CPC seeking permission to recall WW1 Ms. Shobha for further cross-examination.
4. It was contended that while she was cross-examined earlier, certain vital questions were not put to her and, therefore, one opportunity may be granted to Management to put forth their defence which was essential for fair and just decision of the case.
5. The application was opposed by the workman and, eventually, the learned Trial Court dismissed the same on 16th April, 2024.



6. Such order is under challenge.

7. I have seen the observations made by the learned Presiding Officer, Labour Court and the learned Labour Court observed that the above said application was highly belated as it was filed more than six years after the conclusion of cross-examination of WW1. It also felt that merely because there was change in the authorised representative of the Management, the case cannot be permitted to be re-opened.

8. It also observed there was no explanation, let alone a sufficient one as to why the application could not be filed earlier.

9. This Court is very much conscious of the fact that the present petition has been filed under Article 227 of the Constitution of India whereby the Court is required to exercise its supervisory powers. The duty of the supervisory Court is to interdict if it finds that the findings are perverse i.e. (i) Erroneous on account of non-consideration of material evidence, or (ii) Being conclusions which are contrary to the evidence, or (iii) Based on inferences that are impermissible in law. Reference be made to *Puri Investments Versus Young Friends and Co. and Others: 2022 SCC OnLine SC 283*.

10. Keeping in mind the overall facts and circumstances of the case and the manner in which the Management is now seeking permission, after six years, to re-open the case all over again, does not cut any ice and, therefore, finding no merit and substance in the present petition, the same is hereby, dismissed.

(MANOJ JAIN)
JUDGE

AUGUST 28, 2024/ss