



2025:DHC:8051



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 18.08.2025

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W.P.(C) 2156/2020

M/S SMS EXPORT PVT. LTD.

.....Petitioner

Through: Mr. Syed Sajad Ali, Adv.

versus

M/S LAXMI ENTERPRISES AND ORS.

.....Respondents

Through: Mr. Ravindra S. Garia, Mr. Upendra
Singh Rajput and Mr. Shashank Singh,
Adv. for R-4.**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Petition has been filed under Article 226 and 227 of the Constitution of India, 1950 impugning the order dated 16.05.2018 [hereinafter referred to as "Impugned Order"] and subsequent ex parte award dated 27.10.2018 [hereinafter referred to as "Impugned Award"] passed by the learned Labour Court. By the Impugned Award, the Respondent No. 4/Claimant has been held to be entitled to the relief of reinstatement with full back wages and continuity of service.

2. It is the case of the Petitioner/Management that the Petitioner never received summons in the matter. Learned Counsel for the Petitioner submits that although, the service report states that one Mr. Chandan Singh, who claimed himself to be the manager of the establishment received the summons, there was no such person ever employed by the Petitioner.

2.1 Learned Counsel for the Petitioner submits that he got knowledge of



these proceedings when he received a recovery certificate/order and that thereafter, he applied for copies of the entire file which was supplied to him only on 15.01.2020. Paragraph 6 and 7 of this Petition in this behalf are set out below:

“6. That the petitioner was shocked to receive information from the office of the Assistant collector Grade-I/11 (Kalkaji) when the petitioner was present to attain another case titled as Shyam Kumar Mishra versus M/S SMS Export Pvt. Ltd.

*8. That the no notice was ever served upon the management. The process server report that one **Sh. Chandan Singh received the summon who claimed** has himself claimed the manager of the petitioner establishment is not correct. The process server prepared false report, at the instance of the respondent no. 1 as the signature on the report does **not bear the signature of Sh. Chandan Kumar it seems, that the process server prepared wrong/false report. It is humbly submitted that no notice were ever served upon the management/petitioner.**”*

[Emphasis Supplied]

3. Learned Counsel for the Petitioner also points out that the Impugned Award, other than stating that the management did not come forward to file any written statement or to cross-examine the Claimant and the evidence of the Claimant remain uncontroverted, does not given any finding or reasoning at all.

4. Learned Counsel for Respondent No.4/Claimant, on the other hand, makes two submissions. Firstly, he submits that the process server report cannot be false. Secondly, he contends that prior to this Court setting aside the Impugned Award, sufficient cause must be shown by the Petitioner as to the ground for setting aside such decree. Reliance in this behalf is placed on the judgment passed by the Supreme Court in ***Kanchhu v. Prakash Chand and Others***¹ to submit that without a sufficient cause being shown, an ex parte

¹ 2025 SCC OnLine SC 868



decree, even in the writ proceedings before this Court, cannot be set aside.

5. Briefly the facts of the present Petition are that Respondent No. 4 was employed before the Labour Court on the post of 'checker' at a monthly salary of Rs. 10790/-. Respondent No. 4 filed a statement of claim before the Labour Court stating that he was not receiving his statutory benefits such as appointment letter, weekly and annual leave, overtime, bonus, and other allowances and that he was removed from the services and his services were terminated on 05.12.2016 without any notice. It is further stated in the statement of claim that the management had obtained signatures of the workman on a blank paper and the management used to change its name and addresses frequently. The relevant extract of the statement of claim is set out below:

"2. That the workman was appointed by the management M/s SMS Export at his establishment but later on the workman was shown to the employee of M/s Anu Enterprises and M/s Laxmi Enterprises by M/s SMS Export upon which the workman was opposed orally. The workman was denied the statutory benefits as per the Delhi Govt. such as Annual leaves, weekly leaves, and bonus etc. For which the management has become annoyed and terminated the services of the workman w.e.f. 05-12-2016 and, withheld his earned wages.

3. That on 07-12-2016 the workman has sent demand notice to the management through speed post but the management deliberately not responded upon which on 13-12-2016 the workman filed a complaint before ALC, Pusp Bhawan Pusp Vihar New Delhi, in respect of this complaint Sh. Manish Mahajan Labour Inspector visited the establishment of the management and made effort to resolve the issue, the management paid earned wages of the workman but refused to take him on duty. Upon the advice of the Labour Inspector on 28-12-2016 the complainant filed claim before the ALC, but the management refused to take the workman on duty. The ALC refer the dispute for adjudication to the hon'ble court due to the adamant attitude of the management.

4. That the workman was unemployed from the date of his termination despite effort made by the workman for alternative job and continued to be unemployed. The workman entitled for reinstatement with full back wages.

5. That the services of the workman were terminated by the management without issuing notice, show cause notice, and without conducting domestic



enquiry by the management.

6. That the management has obtained signature of the workman on blank paper and voucher which is null and void.

7. That the management used to change his name and addresses hence the workman reserve his right to file fresh addresses of the management”

[Emphasis supplied]

5.1 The evidence that has been placed on record by Respondent No. 4 also sets out that Respondent No. 4 demanded his statutory benefits for which the management has become annoyed, with the intent to harass him, the management transferred him from SMS Export Pvt. Ltd. to M/s Anu Enterprises and M/s Laxmi Enterprises of which the workman objected to such transfers, stating that he was originally employed with M/s SMS Export Pvt. Ltd. and his wages were being paid by them at C-174, Okhla Phase I, New Delhi. The management however, continued transferring him from one entity to another, and upon his terminated the services with effect from 05.12.2016 and withheld his earned wages. Since, based on the demand notice, the wages were not paid, a complaint was filed. Paragraphs 3, 4 and 5 of the affidavit of evidence of the workman are set out below:

“3. That the deponent time to time demanded his statutory benefits as per the Delhi Govt. such as Annual leaves, weekly leaves, and bonus etc. orally for which the management has become annoyed and management was harassing the deponent. The management has transferred the deponent form SMS Export Pvt. Ltd. to M/s Anu Enterprises and M/s Laxmi Enterprises to defeat the very purposes of law, upon which the deponent objected and asked the management that he was working for M/s SMS Enterprises and his wages was paid by M/s SMS Enterprises at C-174, Okhla Phase I, New Delhi and management time to time transferred to other managements upon which the management has become annoyed and terminated the services of the workman w.e.f. 05-12-2016 and withheld his earned wages.

4. That on 07-12-2016 the deponent has sent demand notice to the management through speed post but the management deliberately not responded upon which on 13-12-2016 the deponent filed complaint before ALC, Pusp Bhawan Pusp. Vihar New Delhi, in respect of this complaint Sh. Manish Mahajan Labour Inspector visited the establishment of the



management and made effort to resolve the issue, the management paid earned wages of the workman but refused to take him on duty. Upon which on 28-12-2016 the complainant filed claim before the ALC, but the management neither present nor filed any reply before the assistant. Labour Commissioner in writing.

5. That the workman was unemployed from the date of his termination despite effort made by the workman for alternative job and continued to be unemployed. The workman entitled for reinstatement with full back wages.”

[Emphasis supplied]

5.2 In addition, it is set out that the services of Respondent No. 4/Claimant were terminated without issuing any notice or show cause notice and without conducting a domestic enquiry and thus, the termination is illegal and unjustified. Paragraph 8 in this behalf is set out below:

“8. That the services of the deponent were terminated by the management without issuing notice, show cause notice, and without conducting domestic enquiry by the management which is illegal and unjustified.”

[Emphasis supplied]

5.3 In support of its contentions, Respondent No. 4 has placed on record gate pass and the notice dated 18.02.2017 that was issued by Respondent No.1. The relevant extract of this notice is set out below:

“LAXMI ENTERPRISES

C-26, 1ST FLOOR, ABUL FAZAL ENCLAVE, JAMIA NAGAR
OKHLA, NEW DELHI 110025

Dated – 18-01-2017

Sh. KULDEEP SHARMA
Sh. DEVENDER SHARMA
H.NO.89, MADANPUR KHADAR,
SARITA VIHAR NEW DELHI-110076,

Notice-II

In continuation of notice dt. 07-12-2016, you are ongoing leave without information, sanction leave, you are advice to report duty at early and explain reason for not reporting duty but you failed to comply the same.

It seems that you are not interested to work with the management. In your absence management has suffer loss and management cannot ignore further your absence. **You are advice to report duty within 3 days of the receipt of the notice and explain reason for unauthorised absence before any further action.** If you fail to report duty then it under stood that you are not interested



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to work with the management and management shall constrain to take action against you. The management has reserve his right to take action against your unauthorised absence from duty.

*For Laxmi Enterprises
Proprietor”*

[Emphasis supplied]

6. From a reading of the documents/evidence placed on record by the Respondent No.3/workman, it is clear that no document to support the claim of illegal termination is placed on record. In fact, an examination of the notice dated 18.02.2017 addressed by Respondent No. 1 shows that it is the case of the Respondent No. 4/workman that he had unauthorizedly absented himself from the duty which is set out in the communication above.

6.1 In addition, and as extracted above, the statement of claim filed only sets out that since the Respondent No.3/workman requested for statutory benefits to which the management became annoyed and terminated his services at one place. At another place, it sets out that the ‘management’ [without setting out who the management was amongst the Respondents], has, obtained signatures on blank paper. The affidavit of evidence of the Respondent No.3/workman also similarly makes the same allegations.

7. As stated above, the Petition specifically states that the Petitioner/Management was never served. The record shows that on 16.05.2018 the learned Labour Court proceeded *ex parte* against the Petitioner on the basis of the service report of the process server. The report of the process server states that the service was affected on one Mr. Chandan Singh who is the manager of the Petitioner. The Petitioner has had made a categorical statement in the present Petition that the Petitioner never employed any person by the name Mr. Chandan Singh and that the Petitioner never received summons and thus, was unable to appear before the learned



Labour Court.

7.1 In addition, the Impugned Order sets out that the matter was listed on 16.05.2018 and on that date, the Petitioner was proceeded with *ex parte* and the Impugned Award was passed.

8. The record reflects that the Terms of Reference that were fixed by the appropriate authority do set out that the issue of whether an employer-employee relationship exists between Respondent No.4/Workman and also whether he has been illegally terminated by Respondent No.1 in the following terms:

*“SCHEDULE
TERMS OF REFERENCE*

"Whether there exists employee-employer relationship between Sh. Kuldeep Sharma S/o Sh. Devender Sharma, age-40 years (Mobile No.-9891892350) and the management no. 1?"

"Whether Sh. Kuldeep Sharma S/o Sh. Devender Sharma, age-40 years (Mobile No.- 9891892350) is absenting at his own; and if not, his services have been terminated illegally and/or unjustifiably by the management no.4; and if so, to what relief is he entitled and what directions are necessary in this respect?"

8.1 It was thus incumbent on the learned Reference Court to decide these issues.

9. However, a review of the findings shows no decision on these Terms of Reference. It is apposite here to set out the findings and conclusions of the Impugned Award in the matter below:

“PART-D

FINDINGS/CONCLUSION

10. After considering the claim, reply, document and the evidence led on record, decision of the court is as under:-

*11. As the management has not come forward to file any Written Statement or to cross-examine the claimant or to lead its own evidence, **the evidence of the claimant remain uncontroverted and unrebutted and as such accepted on its face value.***



12. Hence, the claimant is held entitled to the relief of reinstatement with full back wages and continuity of service.

13. Reference answered accordingly.”

[Emphasis supplied]

10. The Impugned Award sets out that the evidence of the Claimant remains uncontroverted and unrebutted and as such accepted on its face value. There is no finding on whether the Court has examined Respondent No. 4 to be a workman or whether his services have been illegally termination as per the Terms of Reference fixed been raised.

11. It is settled law that reasons must be given for every judgment passed by a Court. The Supreme Court in the case of *Uttar Pradesh State Road Transport Corporation vs. Jagdish Prasad Gupta*² has held that it is the duty of the Court to ensure that reasons are provided in the order so as to introduce clarity in the order indicating the application of mind thereby avoiding arbitrariness in the decision. It was held that the failure to give reasons amounts to a denial of justice. The relevant extract is below:-

“8. “5. ... **Reasons introduce clarity in an order.** On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order indicative of an application of its mind, all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the [High Court's judgment] not sustainable. ...

6. Even in respect of administrative orders, Lord Denning, M.R. in *Breen v. Amalgamated Engg. Union* [(1971) 2 QB 175 : (1971) 2 WLR 742 : (1971) 1 All ER 1148 (CA)] observed : (WLR p. 750 G). ‘The giving of reasons is one of the fundamentals of good administration.’ In *Alexander Machinery (Dudley) Ltd. v. Crabtree* [1974 ICR 120] it was observed:

‘Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at.’

Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the ‘inscrutable face of the sphinx’, it

² (2009) 12 SCC 609



can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reasons is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking-out. The 'inscrutable face of a sphinx' is ordinarily incongruous with a judicial or quasi-judicial performance."

[Emphasis supplied]

11.1 The proposition of law that reasoning is required to be given in judicial pronouncements and by authorities, even for *quasi-judicial* decisions has been discussed in detail in the decision of the Supreme Court in the case of ***Kranti Associates (P) Ltd. & Anr. vs. Masood Ahmed Khan & Ors.***³. The relevant extract is set out below:

"47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decisionmaker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial

³ (2010) 9 SCC 496



decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

*(j) **Insistence on reason is a requirement for both judicial accountability and transparency.***

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

*(l) **Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.***

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37].)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)], wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process".

[Emphasis supplied]

12. The Petitioner has submitted that no service was ever affected on him, hence, he could not contest the matter. It is further stated that the Respondent No.4/Claimant was working with its Contractor-Respondent No.1. In addition, it has also been stated that the Award has been passed without the



Respondent No.4/Claimant being held to be a workman as or a finding on the fact that he is employed with the Petitioner. It is the case of the Petitioner that he remained unserved and became aware of the Impugned Award when a notice for recovery was issued against the Petitioner and Respondents Nos. 1 to 3.

13. The record reflects that although the Award is sought to be enforced against the Petitioner, the Respondent No.4 has in his Statement of Claim stated that he is a workman of the Petitioner, Respondent No.1 and Respondent No.3. The gate form filed *qua* Respondent No.4/Claimant is stated to belong to Respondent No.1. The learned Labour Court has however not given a finding on whom amongst the Petitioner, Respondent Nos.1 to 3 entities is the employer of the Respondent No.4/Claimant.

14. Two questions were raised as per the Terms of Reference. Firstly, whether there exists an employer-employee relationship between the Petitioner and Respondent No. 4 and secondly, whether the services of Respondent No. 4 have been illegally and unjustifiably terminated by Respondent No. 1.

14.1 The Impugned Award, however, has failed to address either of these issues or give any findings on the Terms of Reference.

15. The Respondent has contended that an *ex parte* decree cannot be set aside without sufficient cause being shown. Reliance in this behalf was placed on the **Kanchhu** case. The facts in the **Kanchhu** case are entirely distinguishable since it was a petition under Article 227 of the Constitution of India filed by the Respondents, which was filed seeking to recall/restore an order passed in a civil suit for cancellation of a decree of sale.



15.1 In any event, it is settled law that an ex parte decree may be set aside if sufficient cause is shown to the Court for non-appearance. The Petitioner has stated in his Petition that he was not served at all.

16. Undisputably the Impugned Award does not decide the terms of reference nor give any findings or even reasons for the award. The Impugned Award thus suffers from a material irregularity.

17. The Impugned Award is accordingly set aside. The matter is remanded for adjudication to the learned Labour Court. The parties shall appear before the learned Labour Court on 09.10.2025.

18. The Petitioner shall ensure the payment of litigation expenses that have been directed by this Court on 28.01.2021 shall be paid within a period of four weeks. Proof of costs shall be placed on record before the learned Labour Court.

19. It is clarified that the amounts already deposited by the Petitioner shall remain deposited and be subject to orders passed by the learned Labour Court.

20. Given the lapse of time, the Petitioner shall file its Written Statement before the learned Labour Court within a period of four weeks. Rejoinder, if any, be filed within a period of two weeks thereafter. It is made clear that neither party will take any unnecessary adjournment before the learned Labour Court.

21. It is clarified that this Court has not examined the matter on merits. All rights and contentions of the parties are left open to be agitated before the learned Labour Court in this behalf.

22. Given the pendency of the matter, the learned Labour Court is



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requested to dispose of the matter expeditiously.

23. The Petition is disposed of in the foregoing terms. All pending Applications also stand closed.

24. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

AUGUST 18, 2025/r