



2025:DHC:7748



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 12.08.2025***+ **W.P.(C) 13166/2019****M/S ELEMENTTO LIFESTYLES**

.....Petitioner

Through: Mr. Sunil Kumar Tripathi and Ms.  
Riya Soni, Advocates

versus

**MR. DEEPAK SINGH BORA**

.....Respondent

Through: Mr. Chetanya Puri, Advocate along  
with Respondent in person**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. This matter has been listed by the Registry specifically in the category of "Old/Targeted Cases" for the purpose of case management.
2. The Registry is directed to ensure that the documents in the vernacular are not placed on record without proper translation and typed copies thereof.
3. The present Petition has been filed by the Petitioner under Article 226 of the Constitution of India seeking to challenge the Award dated 14.01.2019 passed by the learned Additional District and Sessions Judge, POLC-V, Dwarka Courts, Delhi [hereinafter referred to as "Impugned Award"]. By the Impugned Award, the learned Labour Court has directed that the Respondent/Workman is entitled to the relief of reinstatement with full back wages and continuity of service.
4. Briefly, the facts are that the Respondent/Workman was employed as



an Accountant at a salary of Rs. 17,000/- per month for the period from 25.01.2016 onwards. While it is the case of the Respondent/Workman that the services of the Respondent/Workman were terminated without any notice or settlement and the salary for the month of December, 2016, January and February, 2017 was not paid in full, it is the case of the Petitioner/Management that the Respondent/Workman was not regularly working regularly and he left the job on his own.

4.1. The Respondent/Workman firstly sent a demand letter on 17.03.2017 seeking reinstatement and thereafter filed a Statement of Claim before the learned Labour Court. On the basis of the said Statement of Claim, the following terms of reference were framed by the appropriate authority which reads as follows:

*“SCHEDULE  
TERMS OF REFERENCE*

**Whether the services of Sh. Deepak Singh Bora S/o Sh. Pratap Singh Bora age-25 years (Mobile No.-9958162885) have been terminated illegally and/or unjustifiably by the management; and if so, to what relief is he entitled and what directions are necessary in this respect?”**

[Emphasis supplied]

5. The Impugned Award reflects that the Petitioner failed to appear before the learned Labour Court or file any written statement, the Petitioner was proceeded with *ex parte* and thereafter an *ex parte* award was passed.

5.1 The record reflects that an Application seeking setting aside the *ex-parte* award was also filed by the Petitioner which was also disposed of by the learned Trial Court.

6. Learned Counsel appearing on behalf of the Petitioner submits that notice was not served upon the Petitioner and the Petitioner, therefore, did not



appear before the learned Labour Court and the first time that the Petitioner became aware of the proceedings was when the service of summons *qua* the recovery proceedings were received by them.

6.1 Learned Counsel appearing on behalf of the Petitioner further contends that there is no employee-employer relationship between the parties and that in fact the Respondent/Workman would not qualify as a Workman under provisions of Section 2(s) of the Industrial Disputes Act, 1947 [hereinafter referred to as “Act”].

6.2 Learned Counsel further submits that the learned Labour Court failed to adjudicate upon the issue of whether or not the Respondent/Workman had worked for 240 continuous days, which is a mandatory requirement in law. He seeks to rely upon the judgment passed by this Court in *M/s Mohan Exports India Private Limited v. Karan Pal Singh & Anr*<sup>1</sup>. in this behalf.

7. Learned Counsel appearing on behalf of the Respondent/Workman, on the other hand, submits that the summons were served upon the Petitioner and they were received by the proprietor/partner of the Petitioner as can be seen from the report of the process server. He thus submits that no valid ground has been made out by the Petitioner for its non-appearance before the learned Labour Court.

7.1 Learned Counsel further submits that since the Petitioner did not appear before the learned Labour Court, the learned Labour Court rightly passed the Impugned Award.

8. The Statement of Claim filed by the Respondent/Workman sets out that

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<sup>1</sup> 2025:DHC:5684



the Respondent/Workman worked as an Accountant since 25.01.2016. The Respondent/Workman has alleged that he was not paid his wages for the months of December, 2016 and January 2017 and received some wages only on 14.02.2017. Thereafter, no wages were paid to the Respondent/Workman. It is the contention of the Respondent/Workman in his Statement of Claim that wages in the sum of Rs. 40,500/- were not paid which compelled him to raise an industrial dispute.

9. A perusal of the Impugned Award shows that the Award sets out that the Management appeared but failed to file any Written Submissions and thus his defence was struck off. The Impugned Award further sets out that the Respondent/Workman examined himself. It is apposite to set out the relevant extract of the Impugned Award below:

**“PART-B**

**MANAGEMENT'S STAND/REPLY**

*7. The management on being served with the notice of claim petition put up appearance but failed to file WS and accordingly, its defence was struck off vide order dated 03.08.2018.*

**PART-C**

**WORKMAN'S EVIDENCE**

*8. In support of his claim workman examined himself as WW1 and deposed along the lines of statement of claim and also proved on record documents in support of his case.*

*9. The management has also not come forward to cross-examine the claimant*

**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 remained 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. As can be seen from the above, the Impugned Award does not contain any reasons or findings for reaching the conclusion that the Respondent/Workman is a Workman or that he is entitled to reinstatement with full back wages. There is no finding or analysis as is requisite for the award of full back wages either.

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***<sup>2</sup> 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:

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<sup>2</sup> (2009) 12 SCC 609



**'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 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.***<sup>3</sup>. 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**

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<sup>3</sup> (2010) 9 SCC 496



**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 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. In addition, the Supreme Court in case of **Rajasthan SRTC v. Phool Chand (Deceased) thru. LRs**<sup>4</sup> has held that the Court, while allowing the appeal, held that it is necessary for a workman to plead and prove with the aid of evidence that, after his dismissal from service, he was not gainfully employed and had no earning to maintain himself or/and his family. The Court further added that while the employer can lead evidence against the employee to prove that the employee was gainfully employed, the initial burden of proof lies on the employee, and for the award of full back wages reasons must be given. The relevant extract is set out below:

**“12. It is necessary for the workman in such cases to plead and prove with the aid of evidence that after his dismissal from the service, he was not gainfully employed anywhere and had no earning to maintain himself or/and his family. The employer is also entitled to prove it otherwise against the employee, namely, that the employee was gainfully employed during the relevant period and hence not entitled to claim any back wages. Initial burden is, however, on the employee.**

**13. In some cases, the Court may decline to award the back wages in its entirety whereas in some cases, it may award partial,** depending upon the facts of each case by exercising its judicial discretion in the light of the facts and evidence. **The questions, how the back wages are required to be decided, what are the factors to be taken into consideration awarding back wages, on whom the initial burden lies, etc. were elaborately discussed** in several cases by this Court wherein the law on these questions has been settled. Indeed, it is no longer res integra. These cases are, *M.P. SEB v. Jarina Bee* [*M.P. SEB v. Jarina Bee*, (2003) 6 SCC 141 : 2003 SCC (L&S) 833], *Haryana Roadways v. Rudhan Singh* [*Haryana Roadways v. Rudhan*

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<sup>4</sup> (2018) 18 SCC 299



*Singh, (2005) 5 SCC 591 : 2005 SCC (L&S) 716], U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey [U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey, (2006) 1 SCC 479 : 2006 SCC (L&S) 250], J.K. Synthetics Ltd. v. K.P. Agrawal [J.K. Synthetics Ltd. v. K.P. Agrawal, (2007) 2 SCC 433 : (2007) 1 SCC (L&S) 651], Metropolitan Transport Corpn. v. V. Venkatesan [Metropolitan Transport Corpn. v. V. Venkatesan, (2009) 9 SCC 601 : (2009) 2 SCC (L&S) 719], 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] and Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya [Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya, (2013) 10 SCC 324 : (2014) 2 SCC (L&S) 184].*

**14. The Court is, therefore, required to keep in consideration several factors, which are set out in the aforementioned cases, and then to record a finding as to whether it is a fit case for award of the back wages and, if so, to what extent.**

*15. Coming now to the facts of the case at hand, we find that neither the Labour Court and nor the High Court kept in consideration the aforesaid principles of law. Similarly, no party to the proceedings either pleaded or adduced any evidence to prove the material facts required for award of the back wages enabling the court to award the back wages."*

[Emphasis Supplied]

12.1 It is no longer *res integra* that awarding back wages is not automatic upon finding termination illegal. Relevant factors must be considered such as delay in raising the dispute, length and nature of service (permanent or daily wage), manner of appointment, and possibility of alternative employment. Since these were ignored, the award of 50% back wages stood vitiated.

12.2 The Supreme Court has in the case of ***General Manager, Haryana Roadways v. Rudhan Singh***<sup>5</sup>, held that there is no fixed rule that back wages must be awarded whenever termination is held illegal. Learned Tribunal and High Court wrongly granted 50% back wages without proper reasoning. The Courts must consider factors such as delay in raising the dispute, length of

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<sup>5</sup> (2005) 5 SCC 591



service, nature of appointment (permanent or daily wage), and possibility of alternative employment. Where the service was short or employment temporary, full back wages from termination till award would be inappropriate. The relevant extract of the ***Rudhan Singh case*** is reproduced below:

6. The next question, which requires consideration is whether the respondent is entitled to any back wages. The Industrial Tribunal-cum-Labour Court awarded 50% back wages on the ground that in Rohtak District of the State of Haryana work of the nature, which was being done by the respondent, is available in plenty as a large workforce comes from Eastern U.P. and Bihar for doing such kind of work. However, a general observation has been made that keeping in view the facts and circumstances of the case it will be proper to award 50% back wages. The High Court has also not given any reason for upholding this part of the award.

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**8. There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25-F of the Act, entire back wages should be awarded. A host of factors like the manner and method of selection and appointment i.e. whether after proper advertisement of the vacancy or inviting applications from the employment exchange, nature of appointment, namely, whether ad hoc, short term, daily wage, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balanced in taking a decision regarding award of back wages. One of the important factors, which has to be taken into consideration, is the length of service, which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back wages keeping in view the fact that at his age and the qualification possessed by him he may not be in a position to get another employment. However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. Another important factor, which requires to be taken into consideration is the nature of employment. A regular service of permanent character cannot be compared to short or intermittent daily-wage employment though it may be for 240 days in a calendar year.**

[Emphasis Supplied]



13. In addition, the learned Trial Court has not conducted any examination on whether the Respondent/workman is covered under the definition of a workman under Section 2(s) of the ID Act worked or whether the workman worked for a continuous period of 240 days as is the requirement of law.

14. A perusal of the statement of claim of the Respondent/workman also clearly reflects that he received part payment for December, 2016 and January, 2017. The relevant extract is below:

*“6. That in continuation to harass the workman, the management has not transferred the wages/salary of the workman in his account No. 00000033635305815, S.B.I. Branch Flyover, Defence Colony, New Delhi, for the months of December 2016 and January 2017, and after long persuasion the management has paid part payment of wages/salary, i.e., a sum of Rs. 10,500/-, which was encashed/transferred in the account of the workman on 14-02-2017 and further stopped the wages for the month of February 2017. But inspite of repeated requests from the workman, the management has still illegally withheld a sum of Rs. 40,500/- (Rupees forty thousand five hundred only) as well as other legal benefits as per rules, as the workman was getting a sum of Rs. 17,000/- (Rupees seventeen thousand only) p.m. at that time.”*

[Emphasis Supplied]

15. Concededly, the Impugned Award has not given any finding in the matter except that since the Petitioner did not come forward to file any written statement or cross examination or lead its own evidence, the evidence remains uncontroverted and rebutted. The Impugned Award does not even set out what amounts were due nor has given any analysis on back wages.

16. In view of the settled law as reproduced above, the findings of the learned Labour Court cannot be sustained. The Impugned Award is, accordingly, set aside.

17. The parties shall appear before the learned Labour Court on 06.10.2025. The learned Labour Court shall conduct the proceedings *de novo*.



18. Given the pendency of the matter, the parties submit that they will be present for each hearing and will not take any unnecessary adjournment before the learned Labour Court.

19. The Written Statement shall be filed by the Petitioner within a period of four weeks from today. Replication/Rejoinder, if any, be filed within a period of two weeks thereafter.

19.1 The amount which has been already deposited by the Petitioner shall remain subject to the final award passed by the learned Labour Court or any proceeding subsequent thereto.

20. Costs in the sum of Rs.25,000/- were imposed by the Court on 23.11.2023. Learned Counsel for the Petitioner submits that the Petitioner is a sole proprietor and will be unable to bear the additional financial burden. Learned Counsel requests for the costs to be waived.

21. In the meantime, let the litigation expenses payable by the Petitioner in terms of Order dated 29.05.2023 be paid within two weeks from today along with reduced costs in the sum of Rs. 5,000/- be paid to the Respondent/Workman. The proof of costs shall be deposited with the Registry of the Court.

22. The Petition is disposed of. All pending Applications stand closed.

**TARA VITASTA GANJU, J**

**AUGUST 12, 2025/g.joshi/ha**