



2025:DHC:11446-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on : 2nd December, 2025**Pronounced on : 17th December, 2025*

+ LPA 3/2025, CM APPL. 72/2025, CM APPL. 75/2025, CM APPL. 46295/2025 & CM APPL. 46296/2025

THE DIRECTOR CENTRAL GOVERNMENT HEALTH SCHEME
(CGHS) & ORS.AppellantsThrough: Mr. Shashank Bajpai, CGSC
alongwith Mr. Vatsal Tripathi,
Advocate.

versus

RAM CHANDER & ORS.Respondents

Through: Mr. Rajiv Agarwal, Ms. Meghna De,
Mr. N Bhushan, Ms. Ekta Tomar, Ms.
L Gangmei Mr. Kamlesh Kr. Mishra,
Ms. Renu & Ms. Arthana Brahma,
Advocates.**CORAM:****HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE MS. JUSTICE MINI PUSHKARNA****J U D G M E N T****Per DINESH MEHTA, J.**
CM APPL. 73/2025 (delay)

1. Feeling aggrieved by the judgment dated 29.07.2024, the appellants have preferred present Letters Patent Appeal, claiming that learned Single Judge has erred in rejecting the writ petition bearing W.P.(C) No.2133/2020 that was filed by them and in upholding the award dated 23.08.2019 of the Central Government Industrial Tribunal-cum-Labour Court-I, Rouse Avenue Court, New Delhi (*hereinafter referred to as "Labour Court"*) passed in the claim petition which was filed by the respondents on behalf of 267



workmen.

2. Hardly had Mr. Bajpai, learned CGSC for the appellants commenced his submissions, when Mr. Rajiv Agarwal, learned counsel for the respondents raised two preliminary objections; first, regarding the unexplained delay of 63 days in filing the appeal and second, regarding the scope of interference while hearing the appeal preferred under Clause 10 of the Letters Patent Act.

3. Advancing his argument, Mr. Agarwal further stated that the delay of 63 days in filing the instant appeal has been sought to be condoned by way of an application being *CM APPL. 73/2025*; a perusal whereof reveals that the appellants have not stated any reason worth the name, leave apart *bona fide* reasons justifying the delay. He submitted that the subject application has been filed cursorily, thinking that this Court will condone the delay, as a matter of their right.

4. Relying upon the judgment of Hon'ble the Supreme Court in the case of **Postmaster General & Ors. Vs. Living Media India Ltd. & Anr**, reported in **2012 (3) SCC 563**, he submitted that in light of the said judgment, the instant application seeking condonation of delay of 63 days deserves to be rejected and consequently, the appeal is liable to be dismissed.

5. Adverting to his other preliminary objection, learned counsel for respondents submitted that it is a settled proposition of law that the scope of interference, under Article 227 of the Constitution of India against an award of the Labour Court is very limited, and when it comes to an appeal under Clause 10 of the Letters Patent Act against an order rejecting such writ petition, the scope of interference gets even narrower. He contended that an



appeal under Letters Patent Act cannot be heard as a regular statutory appeal and if the learned Single Judge has passed a detailed judgment and considered all aspects of the matter, the Division Bench, while hearing the appeal thereagainst, would not re-examine the submissions and appreciate evidence as a regular appeal.

6. Responding to the preliminary objections, Mr. Shashank Bajpai, learned CGSC for the appellants, fairly submitted that true it is, that the application seeking condonation of delay (*CM APPL. 73/2025*) has not been properly drafted and proper reasons have not come forth explaining the delay; but nevertheless given the fact that it is not a case of one single workman but a case involving 267 Data Entry Operators, *qua* whom the Labour Court had passed an award, not only of regularisation but also of payment of the back wages from the date of their initial appointment, a lenient view be taken, he prayed.

7. He further submitted that, having regard to the facts involved, the delay is not inordinate (63 days). He also submitted that limitation period prescribed for an appeal under Clause 10 of Letters Patent Act is 30 days, which passes very fast, in the movement of files from one desk to another in the Government hierarchy. He added that the decision of the Labour Court will not only affect many such cases but entail huge financial burden upon the public exchequer running into multiple crores.

8. Adverting to other preliminary objection regarding scope of the appeal, learned CGSC submitted that simply because the order of learned Single Judge seemingly takes into consideration, entire evidence or arguments, the right of appellants cannot be curtailed, if perversity or manifest error in the impugned orders can be demonstrated by the



appellants.

9. Without disclosing our mind, we requested learned counsels for the parties to make submissions on merit as well, so as to ward off postponing or deferring of the hearing, if we choose to reject the objections. The arguments were therefore, heard on merit as well.

10. Before advertng to the contentions relating to merit of the order, we deem it apposite to pronounce upon preliminary objections raised by the respondents.

11. So far as delay of 63 days is concerned, during the course of hearing, we had observed that the reasons stated in the application are not satisfactory, for which, the learned CGSC sought two weeks' time to furnish explanation for the delay of each day. However, instead of giving time, we proceeded to hear the arguments on merits.

12. We often find that the machinery of the State, be it Union of India or State or its organs, does not proceed at the requisite pace, when it comes to filing of an appeal and adhering to the prescribed timeline for filing appeals, etc.

13. In the peculiar facts of the case, we are refraining from taking a technical view and owing to the effect and consequence of the award that has been passed by the Labour Court on 23.08.2019, vide which inasmuch as 267 Data Entry Operators have been ordered to be regularized, we are of the view that if instant appeal is rejected on delay, it would lead to miscarriage of justice. We are, therefore, persuaded to take a lenient view of the matter in the interest of justice.

14. The application is, therefore, allowed.

15. The delay of 63 days in filing the appeal is condoned and the appeal is



treated to have been filed within limitation.

16. The application stands disposed of.

LPA 3/2025

17. So far as the second preliminary objection regarding maintainability of the appeal is concerned, according to us, such objection cannot be considered to be a preliminary objection in the eyes of law. It is not a preliminary objection regarding maintainability of the appeal as a matter of fact, but it revolves around the scope of interference by the Court while hearing a Letters Patent Appeal preferred under Clause 10 of the Letters Patent Act.

18. According to us, maintainability and scope of interference have two different connotations and have different scope altogether. So far as maintainability of an appeal is concerned, such question can be raised as a preliminary objection and should be decided first, but when the question is regarding the scope of interference, the same cannot be decided as a preliminary objection, and divorced of the facts involved and arguments advanced at the bar.

19. We, therefore, deter from dilating upon such argument as a preliminary objection and defer our consideration on this aspect to latter part of the judgment, where we have dealt with the facts.

20. Mr. Shashank Bajpai, learned CGSC for the appellants submitted that the appellants have preferred the present appeal on following counts;

- i. **The engagement was for a term** – Mr. Bajpai, learned CGSC for the appellants argued that the respondents were engaged for the job of data entry, that too for a limited period of 5-7 years. In this regard, he sought to take the Court through Annexure P-4 of the writ



petition filed with the memo of appeal, to contend that as per this document, the engagement of respondents as Data Entry Operators was only for a short term.

- ii. **There is/was no regular post of Data Entry Operators-** Learned counsel contended that there was no regular post of Data Entry Operators and therefore, no direction could be issued to regularise the respondents, who are 267 in number. He submitted that though a specific plea in this regard was taken by the appellants in their reply to the claim petition but the Labour Court did not consider the same in its true perspective and registered the reference made by the appropriate Government vide letter dated 15.07.2014.
- iii. **No advertisement was published and no interviews were conducted-** Apart from the contention that there was no sanctioned post of Data Entry Operators, learned CGSC argued that neither any advertisement was published nor was any interview conducted before engaging these respondents.
- iv. **No appointment order was issued-** Learned CGSC submitted that no appointment order was issued by the Government, therefore, there was no question of regularisation and in any case, the liability of regularisation could not be saddled upon the appellants.
- v. **No salary slip was provided-** Learned CGSC argued that the respondents have not placed on record any salary slip issued by the Government so as to establish that they were paid the salary by the Central Government. On the contrary, he contended that the salary was in fact paid by different contractors or the placement agencies.
- vi. **No terms and conditions were laid down-** It was contended that



apart from the fact that no appointment order was issued, even terms and conditions of the service or employment were not reduced in writing between the appellants and respondents.

- vii. **No privity of contract-** Learned CGSC submitted there has been no privity of contract between the appellants and the respondents and that separate contracts of providing services were executed between the appellants and the contractors from time to time, in which the respondents-workmen were not parties.

21. Having advanced these arguments, learned CGSC for the appellants submitted that all these respondents might have worked as Data Entry Operators in various offices of the appellants, however, the learned Labour Court could not have passed an award directing to regularize all of them without considering that none of them had completed 10 years of regular service with the appellants on the date of filing of the claim petition.

22. He relied upon judgments of Hon'ble the Supreme Court in the case of **Secretary, State Of Karnataka & Ors. Vs. Uma Devi & Ors.** reported in 2006 (4) SCC 1 and **Maharashtra State Road Transport Corporation & Anr. Vs. Casteribe Rajya Parivahan Karmchari Sanghatana**, reported in 2009 (8) SCC 556, more particularly, para no. 32, 33, 35 and 36 of the latter judgment.

23. Responding to above arguments, Mr. Rajiv Agarwal, learned counsel for the respondents, briefly apprised the Court about the backdrop facts and contended that the respondents had worked as Data Entry Operators against the posts of Lower Division Clerks (*hereinafter referred to as "LDCs"*) with the appellants.

24. He submitted that true it is, there might be some agreement between



the appellant-CGHS and the contractors, but the fact remains that the contractors kept on changing hands from 2006 to 2014, but the services or engagement of all the respondents continued for all those years.

25. He submitted that all the respondents had worked against sanctioned posts and were possessed of requisite qualification and their services were found satisfactory. Hence, the appellants could not have dispensed with their services in the absence of any fault on their part.

26. Learned counsel submitted that since the respondents were wrongly terminated, they invoked relevant provisions of the Industrial Disputes Act, 1947 (*hereinafter referred to as the “ID Act” or the “Act of 1947”*) and at their instance, following dispute came to be referred by the appropriate government:

“Whereas services of the workmen Shri Ram Chander & Others can be regularized in the establishment of CGHS as they have been working in the establishment since 5 to 7 years on continuous basis? If not, what relief the workmen concerned are entitled to?”

27. He further submitted that a specific claim was filed by the respondents, asserting that they have been working against sanctioned posts and though they had discharged satisfactory services and were possessed of requisite qualifications, they have been disengaged without there being any rhyme or reason.

28. He further invited our attention towards the claim petition and the corresponding reply filed by the appellants (respondents therein) and argued that the specific pleadings of the respondents-claimants have remained unanswered.

29. He argued that since the appellants, as non-claimants, had given unwarranted reference and reliance upon their contract between the contractor or the placement agency, they moved an application under



Section 11(3)(b) of the ID Act; yet those documents were not placed on record against which the Labour Court had to draw an adverse inference.

30. Taking the Court through the statement of Dr. V. K. Dhiman, Nodal Officer of the CGHS Wellness Centre (MW-1), he submitted that if his statement is read, it unravels that he had deposed mechanically and in terms of the State's reply to the claim petition, but his cross examination totally supports the case of the claimants (respondents herein).

31. He read the relevant part of the testimony of *MW-1* and highlighted that he had accepted the fact that 10 claimants-workmen were terminated by the management in Kanpur; memos were issued to the claimants by the management, more particularly, Chief Medical Officers (*hereinafter referred to as "CMOs"*) who used to supervise the work and performance of the claimants; the claimants used to move the leave applications before the CMOs, who used to decline or accept the same; the CMOs is the disciplinary authority of the claimants. He further highlighted that the concerned workmen are continuously and uninterruptedly working with the appellants-non-claimants (except those who voluntarily abandoned work) and conduct of the claimants is satisfactory except in a few cases and also that the claimants fulfil the essential qualification.

32. Having read such deposition of the defence witness, Mr. Rajiv Agarwal pointed out that said witness had also accepted the factum of issuance of *Ex. MW-1/W1 - Ex. MW-1/W7* except *MW-1/W2*, as also the fact that the ID Cards, Transfer Orders, Termination Orders, Appreciation Letters, Joining and Relieving Orders, Work Experience Letters, User IDs and Passwords and Participation Certificates in Seminars were issued by the Officers of appellant-CGHS to the claimants.



33. He further underscored that this crucial witness of the non-claimants had also accepted the fact that no material or document is available on record to show that any MOU was signed between 2010 and 2014. He also pointed out that *MW-1* had accepted that Hon'ble the Minister, Sh. Gulam Nabi Aazad (the then Health Minister of India) had given an answer to a question raised in Parliament being *Ex. MW1/W6*.

34. Reading the relevant part of his cross examination or answer relating to *Ex. MW-1/W6*, he submitted that Hon'ble the Minister-in-charge had clearly stated in the Parliament that these Data Entry Operators were working against the sanctioned post of LDCs.

35. Having taken the Court through the testimony of *MW-1*, learned counsel also read the cross examination of *MW-2*, the Deputy General Manager of the National Information Centre Services Inc., namely Umakant Jena and submitted that he had in express terms, accepted that the management had never tried to ascertain the fact that the vendors were changing from time to time, though the workers remained the same and that the Officers of CGHS were exercising supervisory control over the claimants and it was officers of CGHS, who used to issue ID Cards, Appreciation Letter, Joining & Relieving Order, ID, Password, etc. and that their concern was only deducting 7% of the money released as service charge and applicable GST in relation to their salary.

36. In response to the contention of learned CGSC for the appellants that these 267 persons have been ordered to be regularized regardless of the fact that many of them had rendered less than a year's service and that they were not even 18 years of age when they were engaged, Mr. Agarwal, learned counsel for the respondents submitted that a list of all the 267 workers



alongwith their particulars had been provided with the claim, all relevant facts were asserted in the claim petition, and neither any reply denying such facts nor any evidence in this regard was led.

37. He further submitted that out of 267 workmen, 185 claimants had appeared in the witness box and gave their testimonial statements and no question had been put to them, so as to falsify their assertions or to demonstrate that they were ineligible. He argued that such plea has been raised only in order to raise a doubt about the credential of the respondents-claimants, who have been working at a meagre salary of Rs. 18,000/- per month (which has now reached to Rs. 26,000/- per month), and that too without there being any plea or evidence on record.

38. Having made such submissions, Mr. Agarwal, learned counsel for the respondents vehemently argued that the Labour Court, so also learned Single Judge, had dilated upon the evidence on record in detail and have come to a conclusion that the respondents are entitled for regularisation from the initial date of appointment and there is no reason to interfere with such findings arrived at by the Labour Court, as affirmed by the learned Single Judge.

39. He, therefore, prayed that the present appeal be rejected and the appellants be directed to implement the award forthwith. He additionally expressed a concern that these poor claimants have been working since 2006 in a hope that their services would be regularized, but to their dismay, the same has not been done, even when the award has been passed in their favor way back in 2019.

40. He submitted that the appeal be dismissed with cost of litigation, as neither is there any scope of interference in Appellate Jurisdiction nor have the appellants been able to make out any case meriting interference.



41. Heard learned counsels for the parties and perused the record.
42. Having turned down the first preliminary objection regarding delay as raised by the appellants, we would like to consider the arguments advanced by Mr. Shashank Bajpai, learned CGSC noted above one by one.
43. The first argument of learned CGSC is that the respondents were engaged for the purpose of performing job of data entry for a limited period of 5-7 years, which is based on Annexure P-4 appended with writ petition and filed with the memo of appeal. It is noteworthy that said document or pleading in relation thereto was raised neither before the Labour Court nor before the learned Single Judge. We, therefore, cannot consider the same.
44. That apart, no application seeking leave to place this document (Order XLI Rule 27 of the Code of Civil Procedure, 1908) on record has been filed. Needless to observe that the present appeal arises out of an order passed by learned Single Judge in his jurisdiction under Article 226/227 of the Constitution of India. Being a writ of *certiorari*, the High Court cannot consider a document which had not been a part of the pleadings or record before the Labour Court and the same cannot *fortiori* be considered in an appeal.
45. The second contention raised by learned CGSC for the appellants that there is no regular post of Data Entry Operators, turns out to be factually incorrect if the answer to the questions posed to *MW-1*, during his cross examination, wherein he had accepted that *Ex. MW1/W6* is the statement given in the Parliament by Shri Ghulam Nabi Azad, the then Health Minister of India, is taken into consideration. The statement of the Hon'ble Minister is reproduced herein extenso:

"...as on date, Data Entry Operators, whose services are outsourced through National Information Center Services Inc. are working at



CGHS Dispensaries against the vacant post of Lower Division Clerks (LDCs).”

A simple reading of above part of the speech given by none other than the then Health Minister establishes that those Data Entry Operators were working against the vacant posts of LDCs.

46. Furthermore, the advertisement/notice published by the Staff Selection Commission, New Delhi, shows that there were sanctioned posts of Data Entry Operators with a grade pay of Rs. 2400/-. An appraisal of the oral and ocular evidence on record leaves no room for doubt that there exists sanctioned post of Data Entry Operators so also of the LDCs and the respondents had worked against these regular posts.

47. **Neither any advertisement published nor interviews conducted:-**

The argument advanced by learned CGSC for the appellants that neither any advertisement was published nor any interviews were conducted was responded by the learned counsel for the respondents by stating that the advertisements were published from time to time on Notice Boards of concerned CGHS offices and respondents were recruited after being interviewed. He asserted that no backdoor engagement entry was given.

48. **No appointment order was issued by the Government-** It is correct that the appellant-CGHS did not issue any appointment order directly to the respondents, but such fact has to be seen while keeping the antecedent facts in mind that the respondents used to be engaged through placement agencies/contractors and that the contract/agreement used to be signed between the appellants and the placement agency. However, such agreements between the appellants and the placement agency have been held to be sham. We are, therefore, of the view that this argument does not help the cause of the appellants at all. The moment the contract/agreement



between the agencies/contractors have been declared bogus, by legal fiction, the employer-employee relationship comes into being.

49. **No salary slip was provided by the Government-** The issuance of salary slip is also inconsequential, when it is an admitted case of the parties that the respondents were engaged through placement agencies from time to time and it was the appellants who paid the salary, though such payment was routed through placement agencies, which arrangement has been held to be a sham by the Labour Court and affirmed by the learned Single Judge. We find no reason or ground to overturn the said finding recorded by the Labour Court.

50. **No terms and conditions were laid down and there was no privity of contract-** The remaining arguments, that no terms and conditions were laid down while engaging the respondents and there is no privity of contract between the respondent-workmen and the appellant-CGHS are also in some way or the other a facet of the earlier contention that no appointment order was issued to the respondents by CGHS. For the reasons given in para no. 48, this argument of Mr. Bajpai is rejected.

51. It has been rightly held by the Labour Court that the appellant-CGHS had adopted a ploy to engage the respondents in order to portray absence of a direct employer-employee relationship. We strongly feel that all the arguments are liable to be rejected, which we hereby do.

52. Learned counsel for the appellants had also argued that none of the respondents had completed 10 years of service on the date of filing the claim petition and therefore, learned Labour Court ought not have issued direction to regularize their services. This contention which flows from the judgment of **Uma Devi** (*supra*) is misconceived, inasmuch as the said judgment



applies in the case of irregular appointments or back-door entries and does not apply in the cases of workmen governed by the ID Act. Since the contract between the CGHS and the placement agency or contractor has been held to be bogus and the same has been discarded, the artificial fence or boundary which had been raised/drawn between the appellant-CGHS and the respondents-workmen stands obliterated. Consequently, a clear employer-employee relationship between the appellants and the respondents comes into existence.

53. Most of the claimants have been held to have put in 10 to 13 years of service by the time the award was passed. They have rendered about 20 years of service as on passing of the instant order; we are of the view that if their services are not regularized, it will not only be arbitrary and illegal falling foul of Article 14 of the Constitution of India but also iniquitous. As a Constitutional Court, we wish to add that continuing the respondents for years together (at least from 2006 to 2013) amounts to their exploitation and unfair practice.

54. The respondents who had been working with the appellants in their various dispensaries throughout the country have admittedly worked as if they were regular employees; their leaves were sanctioned by the Chief Medical Officer (CMOs), disciplinary actions were taken by CMOs, the CMOs had issued Merit Certificates and Relieving Orders and used to take disciplinary actions. Even orders of termination were issued by the CMOs. The officers of the CGHS were the disciplinary authority, *de facto* and *de jure*.

55. We would like to reproduce finding recorded by the Labour Court in para no. 17 of its judgment:

“.....He clarified that during the period from 2006 till date about 12 vendors/contractors have been changed from time to time but the Management never tried to ascertain the fact that vendors were changing from time to time, but the workers remained the same. According to him, there is nothing on record to show as to when the



*workmen/claimants were engaged by the vendor concerned or as to when their services were terminated by any of the vendors. He **admitted that officials of Management of CGHS were exercising supervisory control over the claimants and same is his reply in regard to ID card, appreciation letters, Joining & relieving, work-experience letter, User ID and password etc. (issued to the claimants). He also admitted that CGHS was appointing, terminating, transferring, issuing appreciation letters etc. to the claimants. He further admitted that the claimants were working under the supervision and control of CGHS. He clarified that their Management (NICS) neither appointed nor terminated nor initiated disciplinary proceedings, nor issued ID cards/experience letters/User ID & password/s to the claimants.***

56. In face of what has come from the mouth of MW-2 and aptly dealt with by the Labour Court and learned Single Judge, we are of the view that there is no escape for the appellants from the findings of fact recorded by the Labour Court.

57. During the course of arguments, learned counsel for the respondents, Mr. Rajiv Agarwal, gave a clarification in response to the Court's query that 10 workers who were terminated at Kanpur (being employed at CGHS) were out of these 267 workers, who too were being represented by the respondent nos. 1 to 3. He further submitted that a list of 267 workers had been appended with the claim as a Schedule and none of the facts regarding their particulars was ever disputed by the appellant-CGHS.

58. He further submitted that an application under Section 11(3)(b) of the ID Act was filed by the respondents in order to bring on record the agreement between appellant-CGHS with the contractors or placement agencies from time to time. However, the same were not intentionally produced by the appellant-CGHS, and therefore, the Labour Court was constrained to draw an adverse inference.

59. Learned counsel for the respondents had also submitted that a meagre amount of Rs. 18,000/- per month, which is now increased to Rs. 26,000/-



per month, is being paid to the respondents and such amount if compared with regular pays, increments and emoluments (including allowances and medical reimbursement, etc.), makes it apparent that the respondents-workmen are being subjected to hostile discrimination *vis-a-vis* their counterparts who are working as LDC/Data Entry Operators.

60. In view of what we have discussed hereinabove, we are of the view that the learned Presiding Officer, Labour Court has committed no error of law so far as declaring the contract between the appellants and the private agencies/contractors to be sham and in directing the appellants to regularize the services of all 267 workmen against the vacant posts of Data Entry Operators or LDCs in CGHS.

61. So far as the direction given in para no. 31 of the award of the Labour Court regarding workmen's entitlements to get wages according to pay scales of their respective categories/designation i.e. Data Entry Operators/LDCs along with consequential benefits from the date of their initial engagement/appointment, is concerned, we are afraid that such direction of granting the salary from the date of their initial appointment cannot be countenanced. This is for the reason that ultimately, it was the will and volition of the respondents who had not only accepted their engagement at the prevailing amount but had also continued with the same arrangements for years and raised disputes only when such engagement was brought to an end.

62. We, therefore, modify the award passed by the learned Labour Court dated 23.08.2019 as affirmed by learned Single Judge in the following manner:

- i. The claimants shall be deemed to be employees of the management of



CGHS and services of 267 employees who continued with the appellants until the date of passing of the award as regular employees on completion of one year from the date of their engagement, if they are otherwise eligible.

- ii. Requisite formal orders of the regularisation on the vacant posts of Data Entry Operators/LDCs shall be passed within a period of 90 days from today and their salary/pay scale after annual increments, etc. shall be fixed accordingly.
 - iii. The appellants shall commence payment of applicable salary including allowances from 01.04.2026 on the post of Data Entry Operators/LDCs.
 - iv. Respondents shall be entitled to get actual benefit from the date of award of Labour Court i.e. 23.08.2019, meaning thereby, they shall be entitled to get arrears of salary and other emoluments from the date of award up to the date of passing of formal order of regularization.
63. The arrears of salary & allowances shall be cleared by appellants/CGHS latest by 30.06.2026, failing which the same shall carry interest at the rate of 6% per annum.
64. The present appeal alongwith pending applications is disposed of in the aforesaid terms.

**DINESH MEHTA
(JUDGE)**

**MINI PUSHKARNA
(JUDGE)**

DECEMBER 17, 2025/nk