



2025:OHC:11616



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

% ***Judgment Reserved on: 17.12.2025***
Judgment pronounced on: 20.12.2025

+ W.P.(C) 11204/2017
M/S RAM SWAROOP AND SONSPetitioner
Through: Mr. Awadhesh Kumar, Adv.

versus

SHRI RIYAZUDDIN AND ANR.Respondents
Through: Mr. Satish Kumar Tripathi, Advocate.

+ W.P.(C) 12504/2018
M/S RAM SWAROOP & SONSPetitioners
Through: Mr. Awadhesh Kumar, Adv.

versus

SHRI NARESH KUMAR & ANR.Respondents
Through: Mr. Satish Kumar Tripathi, Advocate.

+ W.P.(C) 12838/2018
M/S RAM SWAROOP AND SONSPetitioners
Through: Mr. Awadhesh Kumar, Adv.

versus

SHRI HARI KISHAN AND ANR.Respondents
Through: Mr. Satish Kumar Tripathi, Advocate.
Ms. Urvi Mohan, Advocate for
GNCTD

+ W.P.(C) 12844/2018
M/S RAM SWAROOP AND SONSPetitioners
Through: Mr. Awadhesh Kumar, Adv.



versus

SHRI DINESH KUMAR AND ANR.

.....Respondents

Through: Mr. Satish Kumar Tripathi, Advocate.
Mr. Anubhav Gupta and Ms. Ishita
Gupta, Panel Counsel for GNCTD.

+ W.P.(C) 12857/2018

M/S RAM SWAROOP AND SONS

.....Petitioners

Through: Mr. Awadhesh Kumar, Adv.

versus

SHRI ISRAR AHMAD AND ANR.

.....Respondents

Through: Mr. Satish Kumar Tripathi, Advocate.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. This present batch of petitions, under Articles 226 and 227 of the Constitution of India, have been filed by the petitioner/management against the separate Awards dated 17.08.2017, 18.08.2017 and 19.08.2017 in LIR No. 64/17, LIR No. 361/17, LIR No. 363/17, LIR No. 362/17 and LIR No. 364/17 respectively passed by the Presiding Officer, Labour Court-XXII, Karkardooma Courts, Delhi, whereby the termination of five



workmen by the petitioner/management was held to be illegal and the petitioner was directed to reinstate them with continuity of service and back wages. Since the petitions are filed by the same management against the Awards involving identical issues with only minor variations in the facts, they were heard together and are being disposed of by this common order.

2. In these petitions, unless otherwise specified, the petitioner will be referred to as the management, and the workman will be referred to by their respective names and collectively as workmen, for convenience.

3. Brief factual matrix, as per the statements of claim filed by the workmen, is as follows: The workmen, namely Riyazuddin, Naresh, Hari Kishan, Dinesh, and Israr, joined the services of the management on 01.01.1992, 05.03.1996, 01.05.1996, 01.01.2000, and 10.10.1992, respectively, to the posts of turner, fitter, and field worker, respectively and each of them discharged their duties to the entire satisfaction of the management. The last drawn salary of



all the aforesaid workmen was ₹8,528/- per month.

3.1. The workmen alleged that the management was not providing the statutory benefits to them and was not even paying the minimum wages as fixed by the appropriate government. A demand notice dated 12.04.2012 was sent to the management. But there was no response from the management. Thereafter, the management failed to make payment of wages for the months of February and March 2012 to the workmen, pursuant to which a complaint dated 19.04.2012 through their then Union was made to the Labour Department. The management came to know about the complaint and terminated the services of the workmen with effect from 14.05.2012. With respect to the management's failure to pay the minimum wages to the workmen, a claim was filed before the appropriate authority, which is presently pending adjudication. The workmen raised an industrial dispute before the Conciliation Officer, who initiated conciliation proceedings in the matter. However, due to the non-cooperation of the management, the



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conciliation proceedings failed, and consequently, the dispute bearing LIR No. 2938/2016 was referred to the Labour Court, and the issue relating to payment of back wages for the period from 14.05.2012 to 20.05.2013 remained pending for adjudication. During the pendency of the said dispute and pursuant to the directions of the Labour Court, the management agreed to take the workmen back in service. Accordingly, the workmen rejoined their duties with effect from 21.05.2013. Despite reinstatement being effected as per the directions of the court, the management victimised the workmen and attempted to compel them to withdraw the pending industrial dispute unconditionally. When the workmen refused to withdraw the dispute, the management threatened them with false implication in police cases in order to pressurise them.

3.2. The management again stopped paying the wages of the workmen for the period from May 2013 to July 2013. The workmen, through the present Union, lodged a complaint before



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the Labour Department. The management again threatened the workmen. However, subsequently sent wages for the said period by cheque on 10.08.2013. The amount so paid was less than the applicable minimum wages, and therefore, complaints in this regard were filed before the Labour Department *vide* complaint dated 11.06.2014. Upon receipt of the said complaint, the Labour Inspector summoned the management for inspection. However, the management failed to appear on the date fixed. Instead, the management wanted the workmen to withdraw the complaint. Since the workmen did not agree to withdraw the complaint, the management illegally terminated the services of the workmen concerned with effect from 29.06.2014 without issuing any prior notice, charge-sheet or conducting any domestic enquiry. No retrenchment compensation or notice pay was paid to the workmen, which is a clear violation of Section 25-F of the Industrial Disputes Act, 1947 (the ID Act). After their illegal termination, the workmen repeatedly requested the management to



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take them back in service, but the management deliberately failed and refused to do so. A demand notice dated 08.06.2015 was served by the workmen. However, the management did not reinstate them. The workmen thereafter again raised an industrial dispute before the Conciliation Officer, who initiated conciliation proceedings in the matter. The earlier industrial dispute is still pending, and therefore, the termination of the workmen during the pendency of the said dispute is in clear violation of Section 33 of the ID Act, having been effected without seeking prior permission or approval of the Court concerned. The workmen have remained unemployed since the date of termination.

4. The management opposed all the statements of claim by filing separate written statements, primarily contending that the workmen abandoned their duties in August 2013 and that the services of the workmen have never been terminated by the management at any point of time. The workmen joined the management with effect from 21.05.2013 pursuant to the



directions of the Court. After joining duties on 21.05.2013, the workmen started absenting themselves from the month of August 2013 onwards without obtaining prior permission or sanction of leave from the management. Since the services of the workmen were never terminated, the question of payment of retrenchment compensation does not arise. As the workmen did not complete 240 days of continuous service in the preceding twelve months, the provisions of Section 25-F of the ID Act are not attracted. The workmen suppressed material facts relating to their unauthorised absence from duty while raising the present dispute. The alleged grievance raised by the workmen did not culminate in an industrial dispute. The present reference was made by the appropriate Government without considering the documents on record and without examining the conduct of the workmen during the conciliation proceedings. During conciliation proceedings, the management offered the workmen an opportunity to resume duties immediately. Despite the said offer, the workmen did not report for



duty. The workmen were paid wages as per the attendance register maintained by the management and were paid wages not less than the minimum wages prescribed by the Government of NCT of Delhi. The workmen filed a claim under the Minimum Wages Act, 1948, before the authority concerned at Pusa, Delhi, which is pending. The management never threatened the workmen or compelled them to withdraw any complaint. The management issued several letters to the workmen calling upon them to resume duties. The workmen did not comply with the said letters and failed to resume their duties. The management replied to the demand notice dated 08.06.2015 *vide* reply dated 08.07.2015, advising the workmen to resume their duties. The management has at all times been ready and willing to take the workmen back on duty.

4.1. Rejoinders were filed by the workmen stating that the management had taken false pleas deliberately to defeat the claim of the workmen. The management had intentionally



misrepresented facts regarding the date of joining and absence. The burden of proof of gainful employment lies upon the management, and the management has failed to place any proof of the workmen's alleged employment. The reference itself reflects consideration of facts by the appropriate authority.

5. On competition of pleadings, necessary issues were framed in each reference. In each of the cases, the workman was examined as WW-1. Exhibits WWI/1 to WWI/7 and Mark W1 to W5 were marked on their side. The management examined MW-1. On the management's side, MWI/1 to MWI/4 and MWI/W1 to MWI/W14 were marked. On consideration of the oral and documentary evidence and after hearing both sides, the Labour Court found that the termination was effected without enquiry and without compliance of Section 25-F of the ID Act, and so the same was illegal and unjustified. As the management failed to prove gainful employment of the workmen after termination, the court directed reinstatement of the workmen, continuity of service and



back wages along with consequential benefits. Aggrieved, by the Awards, the management has filed the writ petitions.

6. The learned counsel for the petitioner/management submitted that the Awards are arbitrary, unreasonable and were passed without consideration of law or comprehending the correct facts. The workmen joined the management on 21.05.2013, and that their wages was as prescribed by the Government. The workmen have completely failed to prove that they had completed 240 days of continuous service during the preceding 12 months from the alleged date of their termination, as the onus to prove this issue was upon them. In support of the argument, reference was made to the dictum in **UCO Bank vs. Presiding Officer 81(1999) DLT 696**, which held that a fact has to be proved by a person who asserts it. Reliance was also made on the dictums in **Municipal Corporation, Faridabad vs Siri Niwas AIR 2004 SC 4681; Mahesh Vs. N.D.M.C 2013 LLR 184** and **Dharam Pal vs Management of M/S J. Roy & Bros [W.P.(C) 8933/2009 dated**



06.12.2012].

6.1. It was further submitted that the Labour Court failed to appreciate that the management led cogent evidence by examining its witness, particularly the wage registers and attendance records produced through MW-1, which conclusively establishes that the workmen had joined on 21.05.2013 and did not complete 240 days before abandoning the service. The workmen, in their cross-examination, expressly admitted that they joined the management with effect from 21.05.2013, and that they had not filed any documentary evidence to prove completion of 240 days or termination of service.

6.2. Further, another industrial dispute bearing LIR No. 2938/16 between the same parties was already pending before another Labour Court, which also dealt with the same issue, and so the Labour Court ought not to have considered the reference in the cases on hand.

6.3. It was further submitted that the Labour Court exceeded



its jurisdiction by granting relief relating to arrears of wages, which squarely falls within the ambit of the Delhi Shops and Establishments Act, 1954 (the DSE Act), in the absence of any proceedings initiated by the workmen under the said Act.

7. *Per contra*, the learned counsel for the workmen submitted that there is no infirmity in the Awards calling for an interference by this Court. It was submitted that the management, for the first time, came with the pleas of unauthorised absence *vide* reply dated 17.07.2014, which was sent in response to the letter of workmen dated 24.06.2016, even though there is no whisper of such averment and plea in the covering letter dated 10.08.2013 by which the earned wages up to July 2013 was sent. The wage register has been found to be fake and unreliable because it does not bear the signature of the workmen.

8. Heard both sides and perused the materials placed on record.

9. At the outset, it needs to be noticed that the scope of



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interference by this Court under Articles 226 and 227 of the Constitution of India against the Awards passed by the Labour Court is narrow and must be exercised with restraint. The jurisdiction of High Courts is supervisory and not appellate. This Court cannot sit as a court of appeal to re-appreciate the evidence or to substitute its own view for that of the Labour Court. Interference is warranted only where the Award suffers from any perversity, patent illegality or jurisdictional error. (**Harjinder Singh v. Punjab State Warehousing Corporation, (2010) 3 SCC 192**). The Apex Court in **Syed Yakoob v. K.S. Radhakrishnan, 1963 SCC OnLine SC 24** held that jurisdiction under Article 226 of the Constitution is strictly supervisory, the High Courts cannot re-appreciate evidence or correct factual errors, and may interfere only for jurisdictional errors or patent errors of law apparent on the face of the record.

10. In the present batch of petitions, the primary contention of the management is that the workmen did not complete 240 days



of continuous service in the twelve months preceding the alleged date of termination. The joining dates of the workmen are also disputed. The management contends that they all joined on 21.05.2013 and that the dates given by the workmen have not been proved in evidence. The management relies on the cross-examination of the WW-1, which reads as:

“It is correct that I joined the management w.e.f 21.5.2013. It is correct that I have not filed any documentary evidence to prove that management terminated my services w.e.f 29.6.2014. It is correct that I have not filed any documentary evidence to prove that I have completed 240 days with the management. It is wrong to suggest that I have not completed 240 days in the preceding twelve months, with the management. It is wrong to suggest that I have worked with the management only up to July 2013. It is correct that I have received a letter dt. 10.8.2013 along with cheque dt. 10.8.2013 amounting to Rs. 16,335/- from the management through Union.”

(Emphasis Supplied)

11. It is true that the workmen have not produced any documents to prove their termination by the management. When this aspect was pointed out by the learned counsel for the



management, to a question put by the Court as to whether appointment order(s) had been issued while the workmen joined for duty, was answered in the affirmative. However, the learned counsel was unable to point out any such document(s) on record. It is true that the initial burden to prove engagement/employment is on the workmen. When there are no documents to show appointment or termination, the workmen cannot be expected to produce non-existing documents. Therefore, the aforesaid admissions made by WW-1 does not in any way improve the case of the management.

12. The attendance registers have been marked as MW1/W1 to MW1/W12. MW1 admitted that no charge-sheet was issued to the workmen regarding their unauthorised absence and that there was no domestic enquiry. There was no notice calling upon the workmen to resume duties, nor was any retrenchment compensation or notice pay paid. The letter dated 10.08.2013, which has been marked as Mark W4, covering the cheque for



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payment of wages for the period from May to July 2013, also does not mention the date of the alleged absence or anything regarding the abandonment of service. Now, even assuming that the attendance registers produced by the management is a true reflection of the attendance of the workmen from 21.05.2012 onwards and that, as shown in the registers, the workmen did not come to work after July 2013, there is no signature of the workmen even on the days they were actually present. It is admitted by the management that the workmen were working from 21.05.2013 to 31.07.2013. However, even on those days, the attendance is not seen marked. The learned counsel was asked whether it is mandatory for a worker to mark his attendance on days on which he reports or duty. The answer was in the affirmative. If that be so, why does the attendance registers not reflect their attendance even on those days on which the management admits their presence? No explanation is forthcoming from the management.

13. The burden lies squarely on the employer to prove that



the workmen abandoned their jobs. Furthermore, no documents were brought on record to show refusal by the workmen to join duties. On the other hand, the workmen have produced a series of complaints dated 18.12.2013 (Ex. WW1/3), 19.03.2014 (Ex. WW1/5), 27.03.2014 (Ex. WW1/6), 11.06.2014 (Ex. WW1/7) and 24.06.2014 (Ex. Mark W4) made to the labour department regarding the non-payment of wages by the management. In their cross-examination, the workmen further stated that they had complained to labour department for non-payment of wages.

14. The argument that another industrial dispute on the same issue is pending before another Labour Court is incorrect, as the said reference pertains to the wages for the period from 14.05.2012 to 20.05.2013, and the case on hand pertains to the wages for the period from 21.05.2013 to 28.06.2014.

15. The argument of the learned counsel for the petitioner that the Labour Court exceeded its jurisdiction by granting relief relating to arrears of wages, on the ground that such relief falls



exclusively within the ambit of the DSE Act is untenable. The relief granted by the Labour Court is not an independent adjudication of a wages claim under the DSE Act. The direction to pay back wages is a consequential relief flowing from the finding of illegal termination under the ID Act. Once termination is held to be illegal, the Labour Court is fully empowered under Section 11-A of the ID Act to grant appropriate relief, including reinstatement with continuity of service and back wages. In **Co-operative Store Ltd. V. K.S. Khurana 1988 SCC OnLine Del 223**, it was held that the provisions under the DSE Act and the ID Act are meant for weaker sections of society, and the statutes are not working in any contradictory fields so as to hold that one legislation would supersede the other legislation. Similarly, in **Delhi Consumers Coop. Wholesale Stores Ltd. v. Secretary, Labour 1982 SCC OnLine Del 219**, it was held that the DSE Act is complementary to the ID Act, and parallel statutory remedies do not imply exclusion. Therefore, the existence of a separate statutory



mechanism for claiming wages under the DSE Act does not oust or curtail the jurisdiction of the Labour Court to award back wages as a consequence of illegal termination.

16. The conclusion and reasoning of the Labour Court that abandonment was not proved, that the workmen were illegally kept out of service, and that Section 25-F of the ID Act was not complied with are pure findings of fact, neither perverse nor unsupported by record. There is no ground calling for interference by this Court.

17. The writ petitions are accordingly dismissed. Application(s), if any pending, shall stand closed.

18. Copy of this judgment be kept in all the connected matters.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

DECEMBER 20, 2025/er