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

% **Date of Decision: 16.02.2026**

+ **W.P.(C) 17810/2025, CM APPL. 73570/2025**

(14) LALJIPetitioner
Through: Mr. Ashok Kumar Sabharwal,
Mr. Shobhit Sabharwal, Adv.

versus

M/S GANESH INDUSTRIESRespondent

Through:

+ **W.P.(C) 17915/2025, CM APPL. 74110/2025**

(15) RADHESHYAM GONDPetitioner
Through: Mr. Ashok Kumar Sabharwal,
Mr. Shobhit Sabharwal, Adv.

versus

M/S GANESH INDUSTRIESRespondent

Through:

+ **W.P.(C) 17916/2025, CM APPL. 74112/2025**

(16) RAM VRIKSHPetitioner
Through: Mr. Ashok Kumar Sabharwal,
Mr. Shobhit Sabharwal, Adv.

versus

M/S GANESH INDUSTRIESRespondent

Through:

+ **W.P.(C) 17918/2025, CM APPL. 74114/2025**

(17) MAAN SINGHPetitioner
Through: Mr. Ashok Kumar Sabharwal,
Mr. Shobhit Sabharwal, Adv.

versus

M/S GANESH INDUSTRIESRespondent

Through:

+ **W.P.(C) 17924/2025, CM APPL. 74125/2025**

(18) MADHUBANPetitioner
Through: Mr. Ashok Kumar Sabharwal,
Mr. Shobhit Sabharwal, Adv.

versus



2026:DHC:1456



M/S GANESH INDUSTRIESRespondent
Through:
+ **W.P.(C) 17927/2025, CM APPL. 74132/2025**
(19) DAYARAM GAURPetitioner
Through: Mr. Ashok Kumar Sabharwal,
Mr. Shobhit Sabharwal, Advs.
versus
M/S GANESH INDUSTRIESRespondent
Through:
+ **W.P.(C) 17933/2025, CM APPL. 74150/2025**
(20) RAMESHPetitioner
Through: Mr. Ashok Kumar Sabharwal,
Mr. Shobhit Sabharwal, Advs.
versus
M/S GANESH INDUSTRIESRespondent
Through:
CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (ORAL)

1. The present petitions assail the awards rendered by the Presiding Officer, Labour Court, Rouse Avenue Courts, New Delhi, in L.I.R Nos. 8371/16; 8372/16; 295/17; 8370/16; 8369/16; 8375/16 and 8367/16, whereby, the claims of the petitioners for reinstatement and back wages were rejected in identical conspectus.
2. Although the factual conspectus is identical across the matters, for the sake of convenience, W.P. (C) 17810/2025 is taken as the lead matter for the purpose of reference to the factual conspectus and relevant documents, *inter alia*, the impugned award.
3. The factual background as set out by the petitioner is that the petitioner was employed as a 'karigar' with the respondent for approximately 10 years. It is submitted that despite the petitioner's repeated



demands for statutory benefits, the respondent failed to extend the same. On 01.11.2015, the petitioner's services were terminated without notice, payment of salary arrears for the preceding 2 months, notice pay, retrenchment compensation or other legal dues. Consequently, the petitioner filed a complaint before the Labour Commissioner, Nimri Colony, Ashok Vihar, Delhi. Thereafter, the petitioner served a demand notice dated 13.11.2015 upon the respondent, which elicited no response. The Labour Commissioner referred the matter to the concerned Labour Court.

4. Before the Labour Court, the petitioner/workman sought reinstatement, continuity of service, full back wages (including earned wages) and consequential benefits with interest. The respondent, before the Labour Court, categorically denied that the petitioner/workman was ever employed with the respondent.

5. In the above background, the Labour Court framed the points that arose for consideration as under:

“5. From the pleadings of the parties, vide order dated 21.03.2018 the following issues were framed by the Ld. Predecessor of this Court:-

- 1. Whether the dispute between the workman and management is an Industrial dispute? OPM.*
- 2. Whether the management had terminated the service of workman? OPW.*
- 3. As per reference “Whether the services of the workman Sh. Lalji S/o Sh. Govind aged 37 years have been terminated illegally and unjustifiable by the management; if so, to what relief is he entitled and what directions are necessary in this respect? OPW.*
- 4. Relief”*

6. The Court examined the rival contentions of the parties in considerable detail and rendered a categorical finding that the petitioner failed to establish his employment with the respondent. In view of thereof,



the Labour court observed that in absence of proof of employer-employee relationship, the question of illegal termination of the petitioner did not arise. Consequently, the claims for reinstatement and back wages were dismissed. In this regard, the relevant extracts of the impugned award are extracted as under:

“The initial complaint before Assistant Labour Commissioner Ex. WW1/6 as well as complaint to SHO, PS Sultanpuri Ex. WW1/8 was filed against the management by workman along with 10 other workmen. On the other hand the management has taken a categorical stand since the inception of the proceeding in its reply to the Labour Inspector dated 18.11.2015 and has maintained in its pleadings before this Court as well as deposed in evidence by way of affidavit that no other employee except three permanent employees have been working for it and that the workman had never worked for the management. Despite specific testimony of MW1 in this regard, he was not cross-examined on the said point. Not even a suggestion was given to him to deny the same. It is well settled law that if the opposite party fails to cross-examine a witness on a certain point, then the said party is deemed to have accepted the same as true. In this regard, the Apex Court in case titled as Sarwan Singh Vs. State of Punjab, AIR 2002 SC 3652, held as under:-

"It is a rule of essential justice that whenever opponent has declined to avail himself of the opportunity to put his case in cross-examination, it must follow that evidence tendered on that issue ought to be accepted."

Therefore, the deposition of MW-1 on this aspect that only three employees were working with the management ought to be accepted on this ground alone. In the present case, not only the workman failed to cross-examine MW1 on the aforesaid point or to put any suggestion denying the same, he also failed to depose as to the number of workmen employed with the management or the identity of such workmen. If the workman was working with the management for ten long years as stated by him, he would definitely have knowledge regarding the number of employees or the identity of the employees working for the management. The silence of the workman on this aspect goes against him. Since testimony of MW1 regarding having only 3 workmen working in the establishment has remained uncontroverted, it raises serious doubts over the claims of the 11 workmen (vide Ex. WW1/6), including the workman herein.



Further, the workman has also failed to examine any independent witness or co-worker employed by the management to substantiate his claim. The testimony of independent witness or co-worker would have given credence to the claim of the workman, but he failed to examine any such witness. No reason was assigned by the workman as to why he did not examine any other witness like co-worker, neighbourer of the management or the customer of the management. It is difficult to believe that no one had seen the workman working for the management despite his claim of having worked for 10 long years with the management. Therefore, an adverse inference is drawn against the workman on this aspect also.

In support of his contention that he was employee of the management, the workman has produced and relied on two slips Ex.WW1/2(Colly) which are stated to be attendance card. The same were put to MW1 during his cross-examination and he categorically stated that same were not issued by the management. A bare perusal of these so called attendance card reveals that the neither name of the management who issued these cards is mentioned nor any signature or seal is affixed on these cards. Therefore, it can not be made out who, if anyone at all, has issued these cards. Not only that, the period to which these cards might pertain is also not mentioned. There is nothing on these cards to connect them to the management. The MW1 was given suggestion during his cross examination that one Mukesh or foreman used to mark attendance on the card, however, he categorically denied the same. Neither Mukesh or the person alleged to have made entries in the card was examined by the workman, nor admitted handwriting of any such person was produced before the court for comparison. As such, workman has failed to prove that Ex. WW1/2 was issued by the management and the same is of no help to the claim of the workman.

Thus, in light of above discussion, it follows that there is no evidence produced by the workman to prove that he was employee of the management, except his bald oral testimony, which has been controverted by the management by oral testimony of MW1, who denied that the workman was employee of the management and he remained firm during cross-examination. There is no reason to disbelieve the oral testimony of MW1 and believe the oral testimony of workman. No reason was assigned by the workman, as to why the Court should believe his oral testimony and disbelieve the oral testimony of MW1. Since, the initial burden of proving employee- employer relationship was upon the workman, in light of above discussions, I hold that the workman has failed to discharge the said burden.

Since, the workman has failed to prove that he was the employee of the



management, the question of his illegal termination by the management does not arise. Accordingly, issues no.2 & 3 are also decided in favour of the management and against the workman.

19. Relief:

In view of discussion above, I hold that the Workman is not entitled to the relief claimed by him in his Statement of Claim and accordingly, his Statement of Claim is dismissed. Reference stands answered in aforesaid terms. Requisite number of copies of this award be sent to the competent authority for necessary compliance. File be consigned to the Record Room.”

7. The impugned award categorically records that the workman, despite claiming to be employed with the respondent for about a decade, failed to furnish any particulars regarding the number of employees of the respondent or even their identities. In this regard, the Labour Court observed as under:

“In the present case, not only the workman failed to cross-examine MW1 on the aforesaid point or to put any suggestion denying the same, he also failed to depose as to the number of workmen employed with the management or the identity of such workmen. If the workman was working with the management for ten long years as stated by him, he would definitely have knowledge regarding the number of employees or the identity of the employees working for the management. The silence of the workman on this aspect goes against him.”

8. Further, the stand of the respondent/ management that it had only three permanent employees and the petitioner/ workman never worked for the respondent was accepted by the Labour Court, noting that the testimony of the concerned witness (MW-1) on this point remained uncontroverted. The relevant portion of the impugned award reads as under:

“On the other hand the management has taken a categorical stand since the inception of the proceeding in its reply to the Labour Inspector dated 18.11.2015 and has maintained in its pleadings before this Court as well as deposed in evidence by way of affidavit that no other employee except three permanent employees have been working for it and that the workman had never worked for the management. Despite specific testimony of MW1 in this regard, he was not cross-examined on the said point. Not even a suggestion was given to him to deny the same. It is well settled law that if



the opposite party fails to cross-examine a witness on a certain point, then the said party is deemed to have accepted the same as true. In this regard, the Apex Court in case titled as Sarwan Singh Vs. State of Punjab, AIR 2002 SC 3652, held as under:-

"It is a rule of essential justice that whenever opponent has declined to avail himself of the opportunity to put his case in cross-examination, it must follow that evidence tendered on that issue ought to be accepted."

Therefore, the deposition of MW-1 on this aspect that only three employees were working with the management ought to be accepted on this ground alone..... Since testimony of MW1 regarding having only 3 workmen working in the establishment has remained uncontroverted, it raises serious doubts over the claims of the 11 workmen (vide Ex. WW1/6), including the workman herein."

9. The labour Court also found the documentary evidence relied upon by the workman to be unreliable. The alleged attendance cards (Ex.WW1/2) were held to be devoid of any evidentiary value whatsoever, and incapable of establishing any nexus with the respondent. The relevant extract of the impugned award in this regard is as under:

"In support of his contention that he was employee of the management, the workman has produced and relied on two slips Ex.WW1/2(Colly) which are stated to be attendance card. The same were put to MW1 during his cross-examination and he categorically stated that same were not issued by the management. A bare perusal of these so called attendance card reveals that the neither name of the management who issued these cards is mentioned nor any signature or seal is affixed on these cards. Therefore, it can not be made out who, if anyone at all, has issued these cards. Not only that, the period to which these cards might pertain is also not mentioned. There is nothing on these cards to connect them to the management..... As such, workman has failed to prove that Ex. WW1/2 was issued by the management and the same is of no help to the claim of the workman."

10. A perusal of the impugned award leaves no manner of doubt that the Labour Court, upon a detailed appraisal of the evidence adduced by both the parties and a thorough examination of the relevant facts and circumstances,



held that the workman/ petitioner failed to establish employer- employee relationship. The findings rest on a reasoned evaluation of the record. This Court finds that no ground is made out to warrant interference with the same.

11. The petitioner has essentially sought to re-agitate the same issue/s which have already been dealt with by the impugned award. It is well settled that in writ jurisdiction, this Court does not undertake re-appraisal of evidence or interfere with factual findings unless they are perverse or contrary to law. This Court finds no patent illegality in the impugned award so as to justify interference therewith. In *Syed Yakoob v. K.S. Radhakrishnan*, 1963 SCC OnLine SC 24, it has been held as under:

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals : these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of



cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised (vide *Hari Vishnu Kamath v. Syed Ahmad Ishaque* [(1955) 1 SCR 1104] *Nagandra Nath Bora v. Commissioner of Hills Division and Appeals Assam* [(1958) SCR 1240] and *Kaushalya Devi v. Bachittar Singh* [AIR 1960 SC 1168])

8. It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means. What can be corrected by a writ has to be an error of law; but it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record. It may also be that in some cases, the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record.....”

12. In *Pepsico India Holding (P) Ltd. v. Krishna Kant Pandey*, (2015) 4 SCC 270, the Supreme Court observed as under:

“14. While discussing the power of the High Court under Articles 226 and 227 of the Constitution interfering with the facts recorded by the courts or the tribunal, this Court in *Chandavarkar Sita Ratna Rao v. Ashalata S. Guram* [(1986) 4 SCC 447], held as under : (SCC pp. 458-59, para 17)

“17. In case of finding of facts, the Court should not interfere in exercise of its jurisdiction under Article 227 of the Constitution. Reference may be made to the observations of this Court



in Bathutmal Raichand Oswal v. Laxmibai R. Tarta [(1975) 1 SCC 858 : AIR 1975 SC 1297] where this Court observed that the High Court could not in the guise of exercising its jurisdiction under Article 227 convert itself into a court of appeal when the legislature has not conferred a right of appeal. The High Court was not competent to correct errors of facts by examining the evidence and reappreciating. Speaking for the Court, Bhagwati, J. as the learned Chief Justice then was, observed at AIR p. 1301 of the Report as follows : (SCC p. 864, para 7)

'7. The special civil application preferred by the appellant was admittedly an application under Article 227 and it is, therefore, material only to consider the scope and ambit of the jurisdiction of the High Court under that article. Did the High Court have jurisdiction in an application under Article 227 to disturb the findings of fact reached by the District Court? It is well settled by the decision of this Court in Waryam Singh v. Amarnath [(1954) 1 SCC 51 : AIR 1954 SC 215] (AIR p. 217, para 14) that the

“power of superintendence conferred by Article 227 is, as pointed out by Harries, C.J., in Dalmia Jain Airways Ltd. v. Sukumar Mukherjee [AIR 1951 Cal 193] , to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts within the bounds of their authority and not for correcting mere errors”.

This statement of law was quoted with approval in the subsequent decision of this Court in Nagendra Nath Bora v. Commr. of Hills Division [AIR 1958 SC 398] and it was pointed out by Sinha, J., as he then was, speaking on behalf of the Court in that case : (AIR p. 413, para 30)

“30. ... It is, thus, clear that the powers of judicial interference under Article 227 of the Constitution with orders of judicial or quasi-judicial nature, are not greater than the power under Article 226 of the Constitution. Under Article 226, the power of interference may extend to quashing an impugned order on the ground of a mistake apparent on the face of the record. But under Article 227 of the Constitution, the power of interference is limited to seeing that the tribunal functions within the limits of its authority.””

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16. In Indian Overseas Bank v. Staff Canteen Workers' Union [(2000) 4 SCC 245 : 2000 SCC (L&S) 471] , this Court considered a similar question with regard to the power of the High Court under Article 226



against the findings recorded by the Industrial Tribunal. Reversing the decision of the Single Judge and restoring the fact-finding decision of the Tribunal, this Court held : (SCC pp. 259-60, para 17)

“17. The learned Single Judge seems to have undertaken an exercise, impermissible for him in exercising writ jurisdiction, by liberally reappreciating the evidence and drawing conclusions of his own on pure questions of fact, unmindful, though aware fully, that he is not exercising any appellate jurisdiction over the awards passed by a tribunal, presided over by a judicial officer. The findings of fact recorded by a fact-finding authority duly constituted for the purpose and which ordinarily should be considered to have become final, cannot be disturbed for the mere reason of having been based on materials or evidence not sufficient or credible in the opinion of the writ court to warrant those findings, at any rate, as long as they are based upon some material which are relevant for the purpose or even on the ground that there is yet another view which can reasonably and possibly be taken. The Division Bench was not only justified but well merited in its criticism of the order of the learned Single Judge and in ordering restoration of the award of the Tribunal. On being taken through the findings of the Industrial Tribunal as well as the order of the learned Single Judge and the judgment of the Division Bench, we are of the view that the Industrial Tribunal had overwhelming materials which constituted ample and sufficient basis for recording its findings, as it did, and the manner of consideration undertaken, the objectivity of approach adopted and reasonableness of findings recorded seem to be unexceptionable. The only course, therefore, open to the writ Judge was to find out the satisfaction or otherwise of the relevant criteria laid down by this Court, before sustaining the claim of the canteen workmen, on the facts found and recorded by the fact-finding authority and not embark upon an exercise of reassessing the evidence and arriving at findings of one's own, altogether giving a complete go-by even to the facts specifically found by the Tribunal below.”

13. Further, the Supreme Court in ***Krishnanand v. Director of Consolidation***, (2015) 1 SCC 553, held as under:

“12. The High Court has committed an error in reversing the findings of fact arrived at by the authorities below in coming to the conclusion that there was a partition. No doubt, the High Court did so in exercise of its jurisdiction under Article 226 of the Constitution. It is a settled law that such a jurisdiction cannot be exercised for reappreciating the evidence



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and arrival of findings of facts unless the authority which passed the impugned order does not have jurisdiction to render the finding or has acted in excess of its jurisdiction or the finding is patently perverse. In the present case, though the High Court reversed the concurrent findings of the authorities below and came to the opposite conclusion on matter of facts, the High Court did not do so on the ground that the authorities below acted in excess of their jurisdiction or without jurisdiction or that the finding is vitiated by perversity.”

14. In the circumstances, this Court finds no merit in the present petitions; the same are, accordingly, dismissed. All pending applications also stand disposed of.

SACHIN DATTA, J

FEBRUARY 16, 2026/ss