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

% *Reserved on: 14th July 2025*
*Pronounced on: 31st July 2025*

\+ **W.P.(C) 12068/2016 CM APPL. 47703/2016**

CENTRAL BOARD OF SECONDARY EDUCATION
.....Petitioner

Through: Ms. Manisha Singh, Advocate

versus

NAWAB SINGH .....Respondent

Through: Ms. Mugdha, Mr. Atul Kr. Srivastav, Advs.

**CORAM:**
**HON'BLE MR. JUSTICE ANISH DAYAL**

## JUDGMENT

1. This petition has been filed for setting aside Award dated 14th March 2016, passed by the Labour Court, Karkardooma, in *Industrial Disputes Case No. 328/2011*.

2. The impugned award holds that the retrenchment/ termination of services of the respondent/ workman was illegal and against the principles of natural justice. The retrenchment/ termination of the respondent/ workman was held to be violative of Section(s) 25F and 25G of the Industrial Disputes Act, 1947 (hereinafter referred to as the '**ID Act**').

3. The respondent/ workman was granted the relief of reinstatement along with all consequential benefits, from the date of his termination i.e. 28th April 2006.

4. The present petition was filed challenging the said award. Notice was issued by the Court and a *stay* was granted on 22nd December 2016.

***Factual Background***

5. Respondent was appointed as a *Daily Wage Junior Assistant vide* letter dated 5th January 1996, issued by the Regional Office of the Central Board of Secondary Education (*hereinafter referred to as* '**CBSE**'), for a period of eighty-nine (89) days.

6. On 28th April 2006 the respondent/ workman was terminated from his services. On 10th October 2011 a reference was made by the Labor Commissioner regarding the claim filed by the respondent/ workman, challenging his termination.

7. On 28th February 2012, the following issues were framed in *ID No. 328/2011*:

(i) Whether the claimant has rendered continuous service of 240 days or more in preceding twelve months from the date of termination of his services, as contemplated by Section 25B of the ID Act?

(ii) Whether the act of terminating services of the claimant amounts to retrenchment within the meaning of section 2(oo) of the ID Act?

(iii) Whether the act of the management in terminating services of the claimant is violative of provisions of section 25F, 25G and 25H of the ID Act?

(iv) As in terms of reference.

8. Upon passing of the impugned award on 14th March 2016, the present petition was filed, challenging the same. An application under

Section 17B of the ID Act was allowed by this Court *vide* order dated 15th January 2020, the petitioner/ Board was directed to pay last-drawn wages /minimum wages, from the 7th of every month from the date of filing of the application. During the course of hearing the respondent/ workman stated that he had been unemployed ever since.

***Submissions on behalf of petitioner***

9. *Ms. Manisha Singh*, Counsel for the petitioner, in support of the challenge to the impugned award, submitted as under:

9.1 Respondent did not render 240 days of continuous service in any calendar year, which is a statutory/ mandatory requirement under Section 25F ID Act.

9.2 The appointment was not for a *continuous* job; respondent/ workman was only required for examination duty, and therefore, provisional appointment was only for a period of eighty-nine (89) days.

9.3 Respondent/ workman was terminated as he was found indulging in suspicious activities *inter alia* tampering of answer-sheets. Petitioner/ Board was apprised of the same on 28th April 2006. Services of respondent/ workman were discontinued with effect from 28th April 2006.

9.4 Respondent/ workman was aware of the consequences of discontinuance of service, yet, neither did he ever protest against the same nor did he approach the Court for not being called for daily wage work as per seniority list.

9.5 In 2011, five (5) years post discontinuance of service and when CBSE had commenced regular selection (*subject to workmen passing the trade test as required in the recruitment rules*), respondent again agitated

the issue and approached the Court for reinstatement as a daily wage worker with consequential benefits.

9.6 A hearing was afforded to the respondent/ workman on 28th June 2011, during which, he failed to give any cogent reasons to the queries put to him. Basis said failure, his name was not restored in the *daily wage seniority list*.

9.7 No evidence was led by the respondent/ workman to prove that he had worked for 240 (*except a self-serving affidavit of evidence*). Fresh documents filed in the present proceedings, were not filed before Labour Court, and thus, are inadmissible. In the year 1999, respondent/ workman had worked only from 11th January 1999 till 31st March 1999. Therefore, when interim order dated 19th April 1999 was passed by this Court in ***W.P (C.) No. 2292/1999***, worker was not engaged by the petitioner.

9.8 There is no parity between respondent and daily wagers who were regularized after qualifying the trade test as the respondent had not worked as daily wager after 2006.

9.9 Grievance of respondent/ workman regarding no written communication being supplied to him with respect to his name being struck off from the seniority list, is misconceived, since the respondent/ workman himself never approached CBSE for work, for 5 long years and thus, he cannot derive benefits out of his own wrong.

9.10 It is evident that, but for regularization, the respondent/ workman was not interested in working with the petitioner/ Board; respondent/ workman solely seeks to unjustly enrich himself, by claiming benefit of regularization.

9.11 Interim order dated 15th November 2000 by this Court in ***W.P (C.) No. 2292/1999*** noted the contentions of the respondent/ workman against CBSE, and *vide* judgment dated 12th February 2004, rejected all claims of the workman for regularization and modification of terms of service. CBSE was directed to consider such persons on seniority list, for regular selection, after granting benefit of age-relaxation.

9.12 It is a settled principle of law that even if a workman is retrenched, in violation of Section 25F of the ID Act, it will not automatically entail relief of reinstatement in service with consequential benefits, particularly so, when the workman approached the Tribunal, belatedly; in this case, five years after disengagement.

9.13 In cases involving retrenchment of daily wage workmen, they can be monetarily compensated instead of reinstatement, in this regard, reliance was placed on, ***BSNL v. Bhurumal***[1]; ***Jaipur Development Authority v. Ramsahai***[2], ***Management of LRS Institute v. Devender Kumar***[3]; ***Management of LRS Institute v. Devender Kumar***[4].

9.14 Reliance was placed on the decision in ***District Rural Development Agency v. Mukeshkumar Gandalal Jadav***[5], where the Supreme Court, while granting compensation in lieu of reinstatement, stated that mere want of notice under the ID Act, would not entitle the terminated workman to seek reinstatement with back-wages.

9.15 Section(s) 25 B and 25 F of the ID Act are applicable only to such workmen who have rendered 240 days of service in a calendar year and the onus to prove the same is on the respondent/ workman. The

[1] (2014) 7 SCC 177
[2] (2006) 11 SCC 684
[3] 2013 SCC OnLine Del 116
[4] 2013 SCC OnLine Del 116
[5] 2023 SCC OnLine SC 1856

respondent/ workman has failed to discharge said onus in the present case, in this regard, reliance was placed on ***DTC v. Mohar Singh***[6].

9.16 The respondent cannot be permitted to file fresh documents at this stage by way of additional affidavit to discharge the onus to prove that he rendered service for 240 days to meet the provision of Section(s) 25B and 25F of the ID Act. However, without prejudice, the contents of the documents sought to be placed on record, taken on face value, do not prove that the worker had worked for more than 240 days in any calendar year.

9.17 Impugned award is contrary to the record as it is based on erroneous presumption that respondent/ workman had completed 240 days of service in a calendar year, since his recurrent engagement as a daily wager, for definite periods, since the year 1998.

9.18 The Labour Court failed to appreciate that the CBSE had categorically *denied* in paragraph of its Reply to the Statement of Claim that the respondent/ workman had ever completed two-forty (240) days of service in any calendar year.

9.19 Claim of the respondent/ workman suffers from a delay in laches as the respondent has raised this after five (5) years since his disengagement, in this regard, reliance was placed on ***Mohar Singh*** (*supra*) to assert that highly belated claims should not be made applicable to Labour Court.

9.20 The respondent has been paid Rs.17,914/- (*Rupees Seventeen Thousand Nine-Hundred and Fourteen Only*) per month, in compliance of directions of this Court under Section 17B of the ID Act, since 15th

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[6] 2015 SCC OnLine Del 11874

April 2019. The said amount was disbursed till the year 2022, thus, approximately totalling up to Rs.6.78/- lakhs (*Rupees Six Lakhs and Seventy-Eight Thousand Only*).

9.21 The respondent/ workman is adding the entire interval of time between order dated 19th April 1999 (*injuncting the petitioner/ Board from disengaging the respondent/ workman*) and order dated 15th November 2000 (*modifying the order dated 19th April 1999*), whereas, in the year 2000, he only worked for a period of 100 days.

9.22 The plea of the respondent that he would have been part of the regularization process, is unmerited; he was not called for the said process since he was not in service and had been terminated previously due to indulgence in suspicious activities (*in a field of operations that requires utmost vigilance*).

***<u>Submissions on behalf of respondent</u>***

10. *Ms. Mugdha*, counsel for respondent, made the following submissions, in support of the impugned award:

10.1 Respondent/ workman claimed that pursuant to his original appointment for eighty-nine (89) days on 5th January 1996, he was re-engaged *vide* appointment letter(s) dated 13th January 1998, 1st January 1999, 17th February 2003, 10th July 2003, 6th July 2004.

10.2 The respondent/ workman, along with other petitioners, filed W.P (C.) No. 2292/1999, seeking regularization of service. Respondent/ workman herein had been arrayed as *Petitioner No. 18* in the Memo of Parties attached with the said Writ Petition. On 19th April 1999, this Court passed an interim injunction stating as under:

> "*There shall be an injunction restraining the second respondent from disengaging the petitioners from casual employment until further orders.*"

10.3 On 15th November 2000, this Court modified the order based on a similar order in another Writ Petition and stated as under:

> *"It is made clear that the services of the petitioner shall not be substituted by any fresh / new worker junior to the petitioners as a daily wager."*

10.4 On 12th February 2004, this Court passed the judgment in WP (C.) No. 2292/1999, directing the CBSE to prepare a *seniority list*; publish it on the notice board of the Head Office and notify a date; granting three weeks' time to all persons who wish to file their objections to the seniority list.

10.5 On 2nd March 2005, the petitioner/ Board prepared a seniority list and the respondent's name was at *Sr. No.38*. Despite the same, the respondent was terminated on 28th April 2006. No termination letter was received from the management.

10.6 Respondent/ workman was terminated without being served a *show-cause notice*; no inquiry was conducted prior to said decision; no memo was addressed to the respondent/ workman; no opportunity of being heard, was afforded to the respondent/ workman.

10.7 On 21st January 2011, the petitioner conducted a *test for regularization*, without any intimation to the respondent/ workman. On 28th June 2011, the petitioner/ Board issued a letter to the Joint Secretary; the respondent/ workman was apprised that on the basis of the complaint received from the Joint Secretary Regional Office, duly approved by the

Controller of Examinations, his name from the list of *Daily Wage Junior Assistants*, had been removed.

10.8 Based on the modification order of 15th November 2000 (*passed in W.P.(C.) 2292/1999*), it was evident that the work allocation to the petitioners (*respondent herein*) would have continued. Reference was made to paragraph no. 14 of the impugned award, where evidence tendered by the parties has been discussed. It has been noted by the Labour Court that *vide* letter dated 29th January 2004, it was desired by the Personal Assistant of Controller of Examinations that due to ongoing pressure of the *compartment examination* and other activities in relation to preparation for next year's examinations, term of *Shri Nawab Singh*, Junior Assistant (*respondent/ workman*), along with two other workmen, be extended for three months. It is stated that the said letter proves that there was a need to engage workmen, for holding examinations.

10.9 The officer of the management deposed in her cross-examination that respondent/ workman was removed from service on account of doubtful credentials. It was admitted by the Officer that no notice had been supplied to him, prior to his termination. She admitted that if there was some irregularity committed by a daily wager, normally, a memo was issued.

10.10 Reference was made to the order passed by the Court on 12th February 2004, stating as under:

> "*Appointments as daily wager would be effected strictly in order of seniority as per said list. Further, as and when regular vacancy arises, such of the persons on the seniority list who apply to be considered for regular selection, be granted benefit of age relaxation.*"

The respondent/ workman was at serial no. 38 of the seniority list dated 2nd March 2005.

10.11 It was stated that the Section 17B ID Act application had been accepted, thus, proving that he was not employed elsewhere.

10.12 On the issue of delay, reliance was placed on ***Ajaib Singh v. Sirhind Coop. Marketing-cum-Processing Service Society Ltd.***[7], ***Jasmer Singh v. State of Haryana***[8].

***Analysis***

11. At this juncture, it is necessary to advert to the decision in ***Dinesh Kumar v. Central Public Works Department***[9], wherein, a Division Bench of this Court referred to various decisions of the Apex Court to demarcate the jurisdiction/ scope of interference by this Court, in its exercise of powers under Articles 226 of the Constitution of India, 1950, against an award passed by an Industrial Tribunal. In this regard, the Court observed as under:

> "*11. The Hon'ble Supreme Court in paragraph 17 of the judgment in Indian Overseas Bank v. I.O.B. Staff Canteen Workers' Union, (2000) 4 SCC 245, has held as under:*
>
> > *"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.*

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[7] (1999) 6 SCC 82
[8] (2015) 4 SCC 458
[9] 2023 SCC OnLine Del 6518

*<u>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</u> which can reasonably and possibly be taken… … <u>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</u> below."*

*12. The Hon'ble Supreme Court in the aforesaid case has held <u>that the findings of fact recorded by a fact finding authority (Tribunal) duly constituted for the purpose becomes final unless the findings are perverse or based upon no evidence</u>. The jurisdiction of the High Court in such matters is quite limited.*

*…..*

*14. In Dharangadhara Chemical Works Ltd. v. State of Saurashtra, 1957 SCR 152, the Supreme Court, once again observed that where the Tribunal having jurisdiction to decide a question comes to a finding of fact, such a finding is not open to question under Article 226, unless it*

*could be shown to be wholly unsupported by evidence.*

*15. In Management of Madurantakam Coop. Sugar Mills Limited v. S. Viswanathan, (2005) 3 SCC 193, the Apex Court, held that the Labour Courts/Industrial Tribunals as the case be is the final court of facts, unless the same is perverse or not based on legal evidence, which is when the High Courts can go into the question of fact decided by the Labour Court or the Tribunal. But before going into such an exercise it is imperative that the High Court must record reasons why it intends reconsidering a finding of fact. In the absence of any such defect, the writ court will not enter the realm of factual disputes and finding given thereon.*

*16. In a Constitution Bench judgment of the Supreme Court in Syed Yakoob v. K.S. Radhakrishnan, AIR 1964 SC 477, the Apex Court has inter alia 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 a 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 Ahmed Ishaque, Nagendra Nath Bora v. Commissioner of Hills Division and Appeals, Assam, and Kaushalya Devi v. Bachittar Singh.*

*8. <u>It is, of course, not easy to define or adequately describe what an error of law apparent on the face of the record means</u>. 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 manliest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious misinterpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly rounded 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. If a statutory provision is*

*reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconstrued or contravened."*

*17. The Hon'ble Supreme Court has in the aforesaid case again dealt with scope of interference by High Court in respect of finding of fact arrived at by Tribunals and in light of the aforesaid judgment, the question of interference by this Court does not arise.*

*18. The Hon'ble Supreme Court in State of Haryana v. Devi Dutt, (2006) 13 SCC 32, has held that the writ Court can interfere with the factual findings of fact only if in case the Award is perverse; the Labour Court has applied wrong legal principles; the Labour Court has posed wrong questions; the Labour Court has not taken into consideration all the relevant facts; or the Labour Court has arrived at findings based upon irrelevant facts or on extraneous considerations.*"

(emphasis added)

12. Considering the strict scope of inquiry/ intervention under the Writ jurisdiction, this Court must first assess the infirmities in the decision of the Labour Court, if any.

13. Primary reasons which prevailed upon the Labour Court while passing the impugned award are as under:

i. That, the workman had deposed that he had worked for more than 240 days in a calendar year and the management failed to produce any relevant record, pertaining to his attendance, to rebut the same.

ii. That, it was an admitted position that casual daily wagers, as a matter of practice, were given employment for eighty-nine (89) days and if their conduct was found satisfactory, they were re-employed by the management. In this background, the Labour Court also noted that, the respondent/ workman's appointment in 1998 was admitted, as also, a fresh appointment letter was issued in 2003 and then again in 2004. These appointment letters had been tendered in evidence by the respondent/workman as, *Ex. WW-1/6, Ex. WW-1/7* and *Ex. WW-1/8*. Nothing was produced by the petitioner/ Board to contradict the aforesaid.

iii. That, there was no dispute that pursuant to these engagements, the respondent/ workman had indeed rendered service towards the petitioner/ Board. *Exhibit WW-1/7* was adverted to, to show that the respondent/workman, along with other employees, was asked to join duty at Preet Vihar within 10 days of receipt of this letter. So do letters at Exhibit *WW-1/8*, *WW-1/9* and *WW1/-10* which appoint the respondent/workman on a daily-wage basis as a Junior Assistant. It was noted that when he joined duty in 2005, he was deputed for a job at *Preet Vihar*. He was a Junior Assistant in the

Examination Department and was engaged in the same post at the time of his termination in 2006.

iv. That, it was undisputed that no *show cause notice* was ever issued to the workman nor any explanation sought from him in writing regarding the allegation of misconduct. The examination of the management's witness, *Ms. Dharini S. Arun, Deputy Secretary, CBSE* (*Exhibit MW-1/A*) also stated that the respondent/ workman was initially engaged on 5th February 1996. He was re-engaged on 16th January 1997 till 18th February 1998; 11th January 1999 till 31st March 1999; 6th February 2004 till 30th June 2004; 4th January 2006 till 27th June 2006. The management's witness also deposed that no notice was issued to the respondent/ workman prior to his termination. The management could not produce any complaint received against the respondent/ workman, during the full period of 1996-2006. The management's witness admitted that normally when an irregularity is committed by a daily wager, prior to termination, a '*memo*' is issued.

v. That, the Personal Assistant of Controller of Examinations (*Ex. WW-1/9*) stated that due to ongoing pressure of compartment examinations and preparation for the next year's examinations, the term of the respondent/ workman as a Junior Assistant, along with two others, should be extended for three (3) months. This could show that there was a '*need*' to engage workmen on account of holding examinations etc.

14. Therefore, the impugned award takes a serious view of violations of principles of natural justice and the lack of any documentation relating

to the alleged misconduct, and in that light, grants the relief of reinstatement with all consequential benefits.

15. This Court is not inclined to interfere with the Award to the extent of having reached a finding that the termination was illegal and devoid of due process. No material has been adverted to, by the petitioner's/ Board's counsel, to displace the findings of the Labour Court.

16. It is imperative to note that similarly placed persons had approached this Court in W.P. 2292/1999, seeking regularization of service. An interim order dated 19th April 1999 was passed, restraining the respondent/ Board therein, from disengaging the petitioners/workman therein. Said interim order was subsequently modified on 15th November 2000.

17. Period when the petitioner was injuncted would also accrue to the benefit of respondent's assertion of 240 days and nothing had been produced by the management to rebut the same. Being a beneficiary of orders of this Court, would be a critical factor regards discharge of burden of proof on the workman. Petitioner's contention that this burden was not discharged by the workman, may therefore not sail.

18. Moreover, finally, on 12th February 2004, the Court, while disposing of the said Writ Petition, directed CBSE to prepare a *seniority list* and display the same on the notice Board of the Head Office, so that objections (if any) thereto, could be invited and the so-called *casual workers* could be regularized.

19. The respondent's/ workman's name was also in the seniority list at serial number thirty-eighty ('*38*'). However, he was not called for *trade test* since he was terminated on 28th April 2006.

20. Clearly, for the reasons mentioned above, the respondent/ workman missed out on the process of regularization despite having been a part of the original *seniority list*, only because of the 2006 termination, which, as noted above, was without due process and unjustified.

21. Reliance placed by the petitioner's/ Board's counsel on the decision in ***Mohar Singh*** (*supra*) cannot come to the aid of the petitioner/ Board, in so far as, in facts of the said decision, the management had been able to successfully rebut the workman's assertion that he had worked for two-forty (240) days, by way of adverting to the attendance register.

22. In such circumstances, considering the limited scope of interference enjoyed by this Court in its Writ jurisdiction, at this stage, the petitioner's/ Board's submission that the respondent/ workman did not discharge his onus to prove service of two-forty (240) days in a calendar year, is tenuous at best. It is imperative to consider that even if the petitioner's submission is taken *prima facie* to be of persuasive value, the orders of this Court in W.P.(C) 2292/1999 and the factum of the respondent/ workman having been part of the *seniority list* by virtue of the same, cannot be ignored; more caution and care ought to have been exercised by the petitioner/ Board, with regard to the statutory process under the ID Act, in light of the facts of the case at hand.

23. Regards the petitioner's contention that additional material has been introduced by the respondent before this Court and therefore cannot be considered, does not persuade this Court to lean in favour of petitioner. Most of the appointment / call letters were part of the record

before the Labour Court and in so far as the orders of this Court in ***W.P (C.) No. 2292/1999*** are concerned, the same can be taken judicial notice of.

24. Further, as regards the submission of the petitioner/ Board that the respondent/ workman was delayed in approaching the Labour Court, reliance is rightly placed by the respondent/ workman's counsel, upon the decision in ***Ajaib Singh*** (*supra*), wherein, the Court observed that mere delay in approaching the Labour Court, would not disentitle the respondent/ workman from relief unless prejudice is shown to have been caused, to the management. Relevant paragraphs of the said decision read as under:

> ***10.*** *It follows, therefore, that the provisions of Article 137 of the Schedule to the Limitation Act, 1963 are not applicable to the proceedings under the Act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone. Even in a case where the delay is shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/termination or dismissal. The court may also in appropriate cases direct the payment of part of the back wages instead of full back wages. Reliance of the learned counsel for the respondent management on the Full Bench judgment of the Punjab and Haryana High Court in Ram Chander Morya v. State of Haryana [(1999) 1 SCT 141 (P&H) : ILR (1999)*

*1 P& H 93 (FB)] is also of no help to him. In that case the High Court nowhere held that the provisions of Article 137 of the Limitation Act were applicable in the proceedings under the Act. The Court specifically held "neither any limitation has been provided nor any guidelines to determine as to what shall be the period of limitation in such cases". However, it went on further to say that*

> *"reasonable time in the cases of labour for demand of reference or dispute by appropriate Government to labour tribunals will be five years after which the Government can refuse to make a reference on the ground of delay and laches if there is no explanation to the delay".*

*We are of the opinion that the Punjab and Haryana High Court was not justified in prescribing the limitation for getting the reference made or an application under Section 33-C of the Act to be adjudicated. It is not the function of the court to prescribe the limitation where the legislature in its wisdom had thought it fit not to prescribe any period. The courts admittedly interpret law and do not make laws. Personal views of the Judges presiding over the Court cannot be stretched to authorise them to interpret law in such a manner which would amount to legislation intentionally left over by the legislature. The judgment of the Full Bench of the Punjab and Haryana High Court has completely ignored the object of the Act and various pronouncements of this Court as noted hereinabove and thus is not a good law on the point of the applicability of the period of limitation for the purposes of invoking the jurisdiction of the courts/boards and tribunal under the Act.*

(emphasis added)

25. Therefore, there is no reason why the respondent should not get recompensed. The intervention/ inquiry of this Court shall remain limited to, whether that benefit should remain, as per what the Labour Court ordered i.e. reinstatement and back wages with consequential benefits or could a lump-sum monetary compensation be awarded in *lieu* of the same.

26. Considering the passage of time, since the matter has been pending before this Court, as also, the submission, though without prejudice, of the petitioner's/ Board's counsel, that retrenchment can be monetarily compensated (*especially considering the objection to termination being procedural in nature*) instead of forcing reinstatement; the solution therefore, before the Court, is obvious.

27. Reliance is rightly placed, in this regard, on the decision(s) in ***Bhurumal*** (*supra*) and ***Mukeshkumar Gandalal Jadav*** (*supra*). Relevant paragraph(s) of the decision in ***Bhurumal*** (*supra*), read as under:

> "*33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or mala fide and/or by way of victimisation, unfair labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases*

> *reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.*
>
> *34. The reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily-wage basis and even after he is reinstated, he has no right to seek regularisation [see State of Karnataka v. Umadevi (3) [(2006) 4 SCC 1 : 2006 SCC (L&S) 753] ]. Thus when he cannot claim regularisation and he has no right to continue even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.*"
>
> (emphasis added)

28. In any event, application under Section 17B of the ID Act was allowed by the Court *vide* order dated 15th January 2020, and the last drawn wages, have been paid by the CBSE, at a rate of Rs. 17,914/- per month. The petitioner/ Board has not been able to adduce any evidence of any alternative employment secured by the respondent/workman.

29. Considering that the respondent was employed, on daily wages, over a period of time, the Court is therefore inclined to grant a lump sum compensation of Rs.15 lakhs, in lieu of reinstatement (directed in 2016), as a one-time relief. This includes the amount disbursed till date pursuant to directions under Section 17B ID Act application. The balance amount to be paid within three (3) months, at an interest rate of seven (7) percent per annum, leviable in the event of delayed payment.

30. This petition is disposed of with the above directions. Pending applications, if any, are rendered infructuous.

31. Judgment be uploaded on the website of this Court.

**(ANISH DAYAL)**
**JUDGE**

**JULY 31, 2025/SM/***kp/sp*