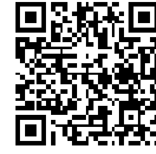

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 16.02.2026
Date of decision: 21.04.2026
Uploaded on: 21.04.2026

\+ W.P.(C) 5741/2011

MANAGEMENT OF LLOYD INSULATIONS (INDIA) LTD. .....Petitioner

Through: Mr. Akshit Sachdeva, Adv.

versus

SUNIL KUMAR AND ANR .....Respondents

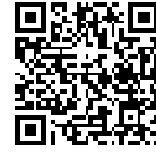
Through: None.

CORAM:
HON'BLE MS. JUSTICE SHAIL JAIN

JUDGMENT

SHAIL JAIN, J

1. The present writ petition has been filed by the Petitioner/Management, M/s Lloyd Insulations (India) Ltd., under Articles 226/227 of the Constitution of India, assailing the Award dated 16.03.2011 passed by the learned Presiding Officer, Labour Court, Karkardooma Courts, Delhi, in DID No. 218/2010 (old ID No. 307/2006), whereby the termination of the Respondent No.1/workman was held to be illegal and unjustified, and the Petitioner/Management was directed to reinstate the workman with continuity of service and 50% back wages from the date of termination till reinstatement.

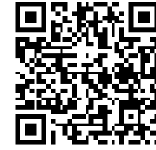


FACTUAL BACKGROUND:

2. Brief facts emerging from the record, which are necessary for adjudication of the present writ petition, are that the Respondent No.1/workman, namely Shri Sunil Kumar, claims to have joined the services of the Petitioner/Management on 13.03.1997 as a Store Keeper. According to the workman, no appointment letter or service record was ever issued to him by the Management, though deductions towards Provident Fund and ESI were regularly made from his wages. It is his case that in the year 2002, the Management manipulated its records and began showing him as an employee of Respondent No.2, namely Shri D.K. Singh, Contractor, despite the fact that he continued to work directly under the supervision and control of the Petitioner/Management.

3. The case of the Petitioner/Management, on the other hand, is that Respondent No.1/workman was never directly employed by it and was, in fact, an employee of Respondent No.2/contractor, who had been engaged for supply of manpower. According to the Petitioner, Respondent No.1 was employed through the contractor from 01.08.2002 till 31.03.2006 and his wages, Provident Fund contributions, ESI contributions and other service conditions were governed by the contractor. It is the stand of the Petitioner that there was no privity of contract between the Petitioner and the workman and, therefore, the question of illegal termination by the Petitioner did not arise.

4. According to Respondent No.1/workman, when he protested against the alleged manipulation of his ESI and PF records and objected to being shown as an employee of the contractor, the Petitioner/Management



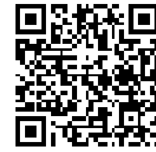
became annoyed and refused him employment with effect from 07.04.2006 without payment of notice pay, retrenchment compensation or any other statutory dues. It was further pleaded that he approached the Labour Authorities and a complaint was made before the Labour Inspector, who visited the establishment on 09.05.2006, but the Management declined to take him back in service. Thereafter, the workman served a demand notice through his Union, to which a reply was sent by the Management, though he was not reinstated.

5. Aggrieved by the alleged termination, the Respondent No.1 raised an industrial dispute. The appropriate Government, *vide* notification dated 15.09.2006, referred the dispute for adjudication to the Labour Court. Pursuant to the said reference, the following question was referred for adjudication to the Labour Court:

> *"Whether there existed relationship of employer and employee between the workman and the management; and if so, whether the services of the workman have been terminated illegally and unjustifiably; and if so, to what relief is the workman entitled?"*

6. Before the learned Labour Court, Respondent No.1/workman filed his statement of claim asserting that he had been directly employed by the Petitioner/Management since March 1997 and that his services had been illegally terminated on 07.04.2006 without compliance with the provisions of the Industrial Disputes Act, 1947.

7. The Petitioner/Management filed its written statement denying the existence of any employer–employee relationship with the workman. It was contended that the Respondent No.1 was an employee of Respondent No.2,



a contractor, and was merely deployed at the premises of the Petitioner.

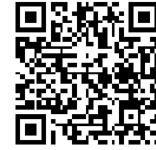
8. On the basis of the pleadings of the parties, the learned Labour Court framed the following issues on 04.12.2006:

> *"1. Whether there existed relationship of employer and employee between the workman and the management?*
> *2. Whether the services of the workman have been terminated illegally and unjustifiably?*
> *3. Relief."*

9. In support of his case, the Respondent No.1/workman examined himself as WW-1 and relied upon documents exhibited as Ex.WW1/1 to Ex.WW1/46. The Petitioner/Management, in support of its case, examined Shri Mohan Singh, LDC of the office of ESIC, as MW-1; Shri Ashwani Chawla from the Provident Fund Department as MW-2; Constable Praveen as MW-3; Shri Rajeshwari Singh, Deputy General Manager of the Petitioner/Management, as MW-4; Shri D.K. Singh, the alleged contractor, as MW-5 and Shri Sharad Burman, Executive of the Management as MW-6. The Petitioner/Management also relied upon various documents relating to PF records, ESI records, contractor records, police records and internal records of the establishment.

10. Upon appreciation of the oral and documentary evidence, the learned Labour Court returned a finding in favour of Respondent No.1/workman. The Labour Court held that the Petitioner had failed to prove that there existed a valid contract labour arrangement covering the entire tenure of the workman's service.

11. The learned Labour Court accordingly held that the relationship of employer and employee existed between the parties and that the



termination of the services of Respondent No.1/workman with effect from 07.04.2006 was illegal and unjustified for want of compliance with Section 25-F of the Industrial Disputes Act, 1947. Consequently, the learned Labour Court granted the relief of reinstatement with continuity of service and 50% back wages along with interest at the rate of 8% per annum from the date of Award till realization. The operative portion of the Award reads as under:

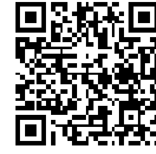
> *"...the workman is entitled to reinstatement in service with 50% back wages at the rate of his last drawn wages or minimum wages prevalent on 07.04.2006 till the date of reinstatement along with interest @ 8% per annum from the date of award till realization..."*

12. Aggrieved by the aforesaid Award dated 16.03.2011, the Petitioner/Management has approached this Court by way of the present writ petition.

13. It is also pertinent to note that despite service, none has appeared on behalf of the Respondent No.1/workman in the present proceedings. The matter has accordingly proceeded *ex-parte* against the Respondent *vide* order dated 8th January 2025.

<u>SUBMISSIONS OF THE PARTIES :</u>

14. Learned counsel appearing on behalf of the Petitioner/Management assailed the impugned Award on the ground that the learned Labour Court had returned findings which were contrary to the material available on record and had ignored documentary evidence establishing that Respondent No.1/workman was not an employee of the Petitioner/Management but of

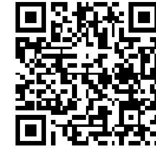


Respondent No.2/contractor.

15. Learned counsel for the Petitioner submitted that the learned Labour Court erred in holding that there existed a relationship of employer and employee between the Petitioner and Respondent No.1/workman. It was contended that the workman was, in fact, an employee of Respondent No.2, namely Shri D.K. Singh, Contractor, who had been engaged by the Petitioner for supply of manpower. According to the Petitioner, the contractor was duly licensed under the Contract Labour (Regulation and Abolition) Act, 1970 and the Petitioner was also registered under the said Act. It was submitted that the registration certificate of the Petitioner as principal employer and the licence issued in favour of Respondent No.2 remained valid till 31.03.2006 and clearly established the existence of a lawful contract labour arrangement.

16. Learned counsel for the Petitioner further submitted that the documentary evidence placed on record, including the appointment letter issued by Respondent No.2 to the workman with effect from 01.08.2002, the ESIC records, PF records, Form-6 under the ESI Act, and the agreement executed between the Petitioner and Respondent No.2 for supply of manpower, clearly demonstrated that Respondent No.1/workman was employed by the contractor and not by the Petitioner. It was urged that the learned Labour Court had brushed aside these documents without assigning cogent reasons and had instead proceeded on conjectures and surmises.

17. Learned counsel also submitted that even according to the evidence of Respondent No.2/contractor, the workman had remained under the



contractor from 01.08.2002 till 31.03.2006 and, therefore, the workman could not have claimed direct employment under the Petitioner during the relevant period immediately preceding the alleged termination. It was contended that once the workman stood covered under the records of the contractor during the relevant period, he was not entitled to invoke the protection of Section 25-F of the Industrial Disputes Act, 1947 against the Petitioner/Management.

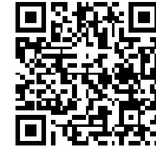
18. Learned counsel for the Petitioner also assailed the relief granted by the learned Labour Court. It was submitted that even assuming the termination to be illegal, the learned Labour Court was not justified in directing reinstatement with continuity of service and 50% back wages. According to the Petitioner, there was no pleading in the statement of claim nor any evidence in the affidavit filed by the workman that he remained unemployed after the alleged termination. It was argued that in the absence of any averment regarding non-employment, no back wages could have been awarded. It was also contended that the management had led evidence to show that the workman was gainfully employed with KUKI, a unit of Tabasko Hospitality Pvt. Ltd., as a cashier during the period from 19.09.2007 to 24.08.2011 and, therefore, the award of back wages for the said period was wholly unsustainable.

19. In support of the aforesaid submissions, learned counsel for the Petitioner placed reliance upon ***Syed Yakoob v. K.S. Radhakrishnan 1963 SCC OnLine SC 24*** to contend that findings of the Labour Court can be interfered with in writ jurisdiction where material evidence has been ignored or findings are perverse. Reliance was also placed upon ***Thankur***

Singh Rawat & Ors. v. Jagjit Industries Ltd., 2004 SCC OnLine Del 772 **and** ***Jag Dev v. DTC & Ors., 2012 SCC OnLine Del 6101*** to contend that in the absence of pleadings regarding unemployment, the workman is not entitled to back wages.

20. Though none has appeared on behalf of Respondent No.1/workman in the present proceedings and the matter has proceeded *ex-parte*, the stand of the workman, as reflected from the counter affidavit filed before this Court and his pleadings before the learned Labour Court, was that he had joined the services of the Petitioner/Management in March 1997 as a Store Keeper and had continued to work directly under the control and supervision of the Petitioner till 07.04.2006.

21. The workman asserted that no appointment letter or wage slip was ever issued to him by the Petitioner/Management, though deductions towards ESI and PF were regularly made from his salary. According to him, the Management had obtained his signatures on blank papers in the year 2002 on the pretext of extending ESI and PF facilities and thereafter misused the said documents to falsely show him as an employee of Respondent No.2/contractor. According to the workman, he had nothing to do with the so-called contractor Shri D.K. Singh and had, in fact, worked directly under the management from 1997 till the date of termination. In this regard, reliance was placed by the workman on the PF documents for the year 1999-2000 which reflected the name of the Petitioner/Management as the employer and the name of the workman as employee. According to the workman, these documents clearly established that he had been employed by the Petitioner much prior to the period during which he was



allegedly shown under the contractor.

22. The workman also relied upon the deposition of Respondent No.2/contractor, who admitted that the workman had worked under him only from 01.08.2002 till 31.03.2006 and further admitted in cross-examination that he had no knowledge as to whether the workman had worked with the Petitioner prior to the said period. According to the workman, this admission itself demonstrated that he had been working directly with the Petitioner even prior to 2002.

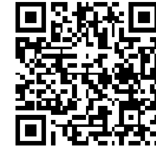
23. On the strength of the aforesaid pleadings and evidence, the workman supported the impugned Award and contended that the learned Labour Court had rightly held that there existed a relationship of employer and employee between the parties and that the termination of his services was illegal and unjustified.

ISSUES FOR CONSIDERATION:

24. In light of the pleadings, the impugned Award and the submissions advanced on behalf of the parties, the following issues arise for consideration before this Court:

24.1 Whether the learned Labour Court erred in holding that there existed a relationship of employer and employee between the Petitioner/Management and Respondent No.1/workman and consequently holding that the services of the workman had been terminated illegally and unjustifiably?

24.2 Whether the impugned Award suffers from perversity, patent illegality or jurisdictional error warranting interference by this Court



under Articles 226 and 227 of the Constitution of India?

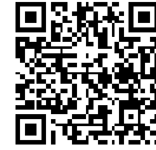
ANALYSIS AND REASONING:

25. This court has heard the rival contentions of both the parties and perused the documents placed on record.

26. Issue No.1 pertains to whether the learned Labour Court committed any perversity or jurisdictional error in holding that there existed a relationship of employer and employee between the Petitioner/Management and Respondent No.1/workman and consequently in holding that the services of the workman had been terminated illegally and unjustifiably by the Petitioner/Management.

27. The learned Labour Court, while deciding the issue of employer–employee relationship, examined both the oral as well as documentary evidence produced by the parties and ultimately came to the conclusion that the workman had succeeded in establishing that he was in the employment of the Petitioner/Management since 1997. The relevant findings of the learned Labour Court are reproduced hereunder:

> *"**13**. MW5 Sh. D.K. Singh, contractor in his statement deposed that Sh. Sunil Kumar worked with him since 01.08.2002 till 31.03.2006 in the establishment of M/s. Lloyd Insulation (India) Ltd.*
>
> ***14.** Thirdly, in his cross examination, MW5 Sh. D.K. Singh stated that he did not know whether Sh. Sunil Kumar was on the payroll of the management prior to becoming his employee. Thus, the contractor MW5, even failed to rebut the evidence adduced by the workman about his employment with the management since 1997*
>
> ***15.** Fourthly, MW6 in his cross examination admitted that Sh.*



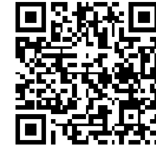
Sunil Kumar had been working with him. He also admitted that name of Sh. Sunil Kumar was there in Ex.MW6/W-1 at Sl. No.1. He continued to admit that Sh. Sunil Kumar used to work under the supervision of Sh. Rajeshwar Singh. He expressed his ignorance whether Sh. Sunil Kumar used to work in dispatch department of the management. He also admitted signatures of Sh. Sunii Kumar on document Ex.WW1/9 to Ex.WW1/46. Thus, this witness of the management has also failed to rebut the evidence of his employment with the management. Conversely, he supported the case of the workman."

28. Further, the Labour Court referred to the documents produced by the workman and held:

> *"**16**. Fifthly, on perusal of Ex.WW1/1, I find that it is a PF receipt containing the name of workman Sh. Sunil Kumar as employee and name of the management M/s. Lloyd Insulation (India) Ltd. as employer and it pertains to year 1999-2000.*
>
> ***17.** Sixthly, on perusal of document Ex.WW1/11, I find that it is a Labour Inspector report. It also bears the signatures of Sh. V.K. Gupta, on behalf of the management. This contains that Sh. Sunil Kumar had been working with the management as a temporary worker from 1999 to 31.07.2002. "*

29. Having considered the aforesaid material, the learned Labour Court came to the conclusion that the workman had discharged his burden to prove that there was relationship of employer and employee between the parties and that he was in the employment of the Management much prior to the date when he had been shown in the employment of Respondent No.2/contractor.

30. The learned Labour Court thereafter examined the plea of contract labour raised by the Petitioner/Management and considered whether the

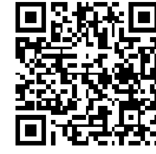


contractor arrangement was genuine. On this aspect, the learned Labour Court recorded that the Petitioner had failed to produce any agreement executed between the Management and the contractor for the relevant period. The Labour Court observed:

> *"**27.** On scrutinizing evidence and material placed on record, I do not find any other agreement except discussed here in above for providing the services of labour under CLRA Act by Sh. D.K. Singh to the management. Therefore, it is held that Sh. D.K. Singh was not providing services of supply of labour to the management since year 1997 i.e. during the entire tenure of service of workman i.e., from 13.03.1997 to 07.04.2006 i.e., till the date of termination of services."*

31. Proceeding on the aforesaid reasoning, the learned Labour Court held that the workman had completed 240 days of continuous service in the twelve calendar months preceding the alleged termination and that his services had been terminated in violation of Section 25-F of the Industrial Disputes Act, 1947. The relevant portion of the Award reads as under:

> *"**28**. It has been held here in above under issue No. 1 that there existed relationship of employer and employee between the parties. The tenure of services has also been discussed under the above issue. It has been established that Sh. Sunil Kumar had been in continuous service of the management for a period of more than 240 days in one calendar year preceding the date of termination of his services by the management.*
>
> ***30**. It is not a case of the management that either the management assigned any reason or issued any notice or offered or paid retrenchment compensation to the workman before or at the time of termination of his services. It is also not a case of the management that the management either issued any charge sheet or conducted any enquiry against the workman. Thus, it has been*



> *established on record that there has been violation of provisions of Section 25F of the Act and principles of natural justice in terminating the services of the workman."*

32. A careful reading of the impugned Award shows that the learned Labour Court placed considerable reliance upon the PF receipt for the year 1999-2000, the Labour Inspector's report and certain admissions elicited from MW-5 and MW-6 in cross-examination. However, in doing so, the learned Labour Court failed to properly appreciate the substantial documentary evidence led by the Petitioner/Management which clearly demonstrated that from 01.08.2002 till 31.03.2006, the workman was employed through Respondent No.2/contractor.

33. The Petitioner/Management had placed on record the registration certificate issued under the Contract Labour (Regulation and Abolition) Act, the licence issued in favour of Respondent No.2/contractor, the agreement executed between the Petitioner/Management and the contractor for supply of manpower, ESI records, PF records, and the appointment letter dated 01.08.2002 issued to the workman by the contractor. These documents consistently demonstrated that from 01.08.2002 till 31.03.2006, the workman was working under Respondent No.2 and not directly under the Petitioner/Management.

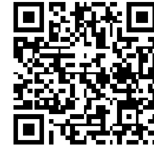
34. Significantly, even the case of the workman was not that he continued to receive salary directly from the Petitioner/Management after 01.08.2002. No salary slips, attendance records, leave records, appointment letter, identity card or any other contemporaneous document was produced by the workman to show that he remained on the direct rolls of the

Petitioner/Management before or after the contractor arrangement came into existence.

35. The only documents relied upon by the workman to establish direct employment with the Petitioner/Management were the PF receipt pertaining to the year 1999-2000 and the Labour Inspector's report. In the considered view of this Court, these documents may at best indicate that at some stage prior to the contractor arrangement, the workman may have been associated with the Petitioner/Management. However, the said documents could not have been treated as conclusive proof that the workman continued to remain in direct employment of the Petitioner/Management till the date of the alleged termination in April 2006.

36. Insofar as the PF receipt is concerned, the case of the workman itself was that the PF and ESI records had been manipulated by the Management so as to show him under the contractor. However, despite taking such a plea, no meaningful cross-examination was conducted of any of the management witnesses with respect to the alleged manipulation or fabrication of the PF documents. Nor was any independent evidence led by the workman to substantiate the allegation of manipulation. In these circumstances, the learned Labour Court could not have relied upon the said document as conclusive proof of a direct employer–employee relationship between the parties.

37. Secondly, insofar as the Labour Inspector's report is concerned, the said document merely indicates the presence of Respondent No.1 at the premises of the Petitioner/Management and that he was working there.

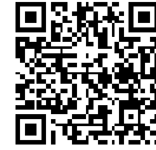


However, the said document does not establish in what capacity Respondent No.1 was working, namely whether he was directly employed by the Petitioner/Management or was deployed through Respondent No.2/contractor. Mere presence of a person at the premises of the principal employer cannot, by itself, be treated as conclusive proof of employer–employee relationship.

38. Equally, the statement of MW-5/Shri D.K. Singh that he did not know whether the workman was employed by the Management prior to 01.08.2002 was merely an expression of lack of knowledge. The same could not have been construed as an admission that the workman was directly employed by the Petitioner/Management from 1997 onwards.

39. It is settled law that the burden to establish the existence of employer–employee relationship lies on the workman. In ***Workmen of Nilgiri Coop. Mkt. Society Ltd. v. State of Tamil Nadu (2004) 3 SCC 514***, the Hon'ble Supreme Court held that the burden of proof to establish employer–employee relationship is on the person who asserts the same. Similarly, in ***Kanpur Electricity Supply Co. Ltd. v. Shamim Mirza (2009) 1 SCC 20***, the Hon'ble Supreme Court reiterated that the existence of employer–employee relationship is essentially a question of fact which has to be proved by cogent evidence and cannot be inferred merely because the workman was performing duties at the premises of the principal employer.

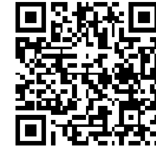
40. The learned Labour Court, in the present case, failed to appreciate that the documentary evidence adduced by the Petitioner/Management clearly established that during the period immediately preceding the alleged termination, the workman was on the rolls of Respondent No.2/contractor.



Once such evidence was available on record, the burden was upon the workman to prove that notwithstanding the contractor arrangement, he continued to be directly employed by the Petitioner/Management. No such evidence was led. Furthermore, the record reveals that the contract between the Petitioner and Respondent No.2 was valid only until 31.03.2006. Upon the expiry of the said contract, the manpower services were transitioned to a new contractor. Consequently, the services of the workman being an employee of the outgoing contractor stood automatically suspended or co-terminated with the primary contract. Such a cessation of work, resulting from the change in manpower agencies, does not constitute 'termination' or 'retrenchment' at the hands of the Petitioner/Management, as there existed no direct jural relationship that could be terminated.

41. In this regard, the Hon'ble Supreme Court in ***Municipal Corporation of Greater Mumbai v. K.V. Shramik Sangh, (2002) 4 SCC 609***, has held that if the contract labour arrangement is genuine and not a sham or camouflage, the High Court under Article 226 cannot direct the principal employer to absorb the workers or treat them as direct employees upon the termination of the principal contract.

42. Once it is found that the workman failed to establish that he was in direct and continuous employment of the Petitioner/Management immediately prior to the alleged termination, the finding of the learned Labour Court regarding illegal termination also cannot survive. The applicability of Section 25-F of the Industrial Disputes Act, 1947 presupposes the existence of an employer–employee relationship and completion of 240 days of continuous service under the employer against



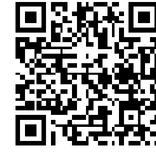
whom relief is sought in the immediately preceding calendar year prior to the alleged termination.

43. In ***Surendranagar District Panchayat v. Dahyabhai Amarsinh (2005) 8 SCC 750,*** the Hon'ble Supreme Court reiterated that the burden lies upon the workman to establish that he had worked continuously for 240 days in the twelve months preceding the alleged retrenchment. The Court observed as under:

> *"**17.** More recently, in Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan (2004) 8 SCC 161, Municipal Corporation, Faridabad v. Siri Niwas (2004) 8 SCC 195 and M.P. Electricity Board v. Hariram (2004) 8 SCC 246, this Court has reiterated the principle that burden of proof lies on the workman to show that he had worked continuously for 240 days in the preceding one year prior to his alleged retrenchment and for the workman to adduce evidence apart from examining himself to prove the factum of his being in employment of the employer."*

44. In the present case, the workman failed to establish that he had worked directly under the Petitioner/Management for 240 days in the twelve months immediately preceding the alleged termination. On the contrary, the documentary evidence on record clearly established that from 01.08.2002 till 31.03.2006 he was working under Respondent No.2/contractor.

45. The learned Labour Court, while holding that the termination was illegal, proceeded on the assumption that the workman had been in continuous employment of the Petitioner/Management since 1997 and had completed 240 days of service in the year preceding the alleged termination, without there being any specific averment to this effect in the

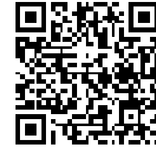


statement of claim filed by the workman, or any cogent evidence led by him to demonstrate continuous service of 240 days with the Petitioner in the twelve months immediately preceding 07.04.2006. Hence, once the documentary evidence on record clearly established that from 01.08.2002 till 31.03.2006 the workman was on the rolls of Respondent No.2/contractor, the question of illegal termination by the Petitioner/Management did not arise. Consequently, the finding recorded by the learned Labour Court on the issue of illegal termination is also unsustainable.

46. This Court is therefore of the considered opinion that the learned Labour Court committed a manifest error in holding that there existed a direct relationship of employer and employee between the Petitioner/Management and Respondent No.1/workman and consequently in holding that the services of the workman had been terminated illegally and unjustifiably by the Petitioner/Management.

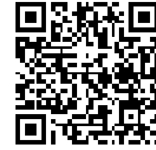
47. Issue No.1 is accordingly answered in favour of the Petitioner/Management and against Respondent No.1/workman.

48. Issue No. 2 concerns the scope of interference by this Court under Article 226 of the Constitution of India with an Award passed by the Labour Court. It is well settled that the jurisdiction of this Court in such matters is supervisory and not appellate. Interference under Article 226 is warranted only where the Award suffers from patent illegality, perversity, non-consideration of material evidence or where the Labour Court has acted in excess of its jurisdiction.



49. In ***Syed Yakoob v. K.S. Radhakrishnan., 1963 SCC OnLine SC 24***, the Hon'ble Supreme Court held that a writ of certiorari can be issued where a tribunal acts without jurisdiction, exceeds its jurisdiction or commits an error apparent on the face of the record. It was further held that where material evidence has been ignored or inadmissible material has been relied upon, the findings can be interfered with in exercise of writ jurisdiction. The relevant part is reproduced below:

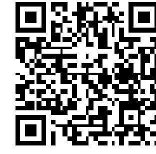
> *"7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction 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."*
>
> *[Emphasis Supplied]*

50. In the present case, as discussed while dealing with Issue No.1, the learned Labour Court ignored the documentary evidence produced by the Petitioner/Management, including the registration certificate under the Contract Labour (Regulation and Abolition) Act, the contractor's licence, the appointment letter issued by Respondent No.2/contractor, ESI and PF records, and the agreement executed between the Petitioner/Management and the contractor.

51. The learned Labour Court instead proceeded to base its findings primarily on a PF receipt pertaining to the year 1999-2000, the Labour Inspector's report and certain answers elicited during cross-examination, without appreciating that these documents, at best, only established that Respondent No.1 was working at the premises of the Petitioner/Management. The said material did not establish in what

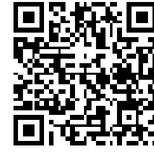


capacity Respondent No.1 was working, namely whether he was directly employed by the Petitioner/Management or was deployed through Respondent No.2/contractor. The PF records were themselves alleged by the workman to have been manipulated, yet no evidence was led to prove such allegation. Further, these documents pertained to the period prior to the contractor arrangement and could not establish direct employment with the Petitioner/Management during the relevant period immediately preceding the alleged termination.

52. The learned Labour Court further failed to appreciate that the burden to establish both employer–employee relationship and completion of 240 days of continuous service lay upon the workman. In the absence of cogent evidence showing that the workman remained directly employed by the Petitioner/Management after 01.08.2002, the Labour Court could not have invoked Section 25-F of the Industrial Disputes Act, 1947 against the Petitioner/Management.

53. In the considered opinion of this Court, the findings recorded by the learned Labour Court suffer from perversity as material documentary evidence has been ignored and conclusions have been drawn on the basis of inconclusive material. The impugned Award therefore suffers from patent illegality and jurisdictional error warranting interference by this Court under Articles 226 and 227 of the Constitution of India.

54. Issue No.2 is accordingly answered in favour of the Petitioner/Management and against Respondent No.1/workman.



CONCLUSION:

55. In view of the findings returned on Issue Nos.1 and 2, this Court is of the considered opinion that the impugned Award cannot be sustained. The learned Labour Court committed a manifest error in holding that there existed a direct relationship of employer and employee between the Petitioner/Management and Respondent No.1/workman despite the documentary evidence showing that the workman was engaged through Respondent No.2/contractor during the relevant period immediately preceding the alleged termination.

56. Consequently, the learned Labour Court further erred in holding that the services of the workman had been terminated illegally and unjustifiably by the Petitioner/Management and in granting relief of reinstatement with continuity of service and 50% back wages.

57. Accordingly, the Award dated 16.03.2011 passed by the learned Presiding Officer, Labour Court, Karkardooma Courts, Delhi in DID No. 218/2010 (Old DID No. 307/2006) is hereby set aside.

58. The writ petition is accordingly allowed in the above terms. Pending applications, if any, stand disposed of.

SHAIL JAIN
JUDGE

APRIL 21, 2026
DG