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

% ***Judgment Reserved on: 08.12.2025***
Judgment pronounced on:11.12.2025

\+ W.P.(C) 6264/2019 & CM APPL 26800/2019

M/S PUNJAB STEEL WORKS (THROUGH ITS PARTNER)
.....Petitioner

Through: None.

versus

SHAMBHU SARAN SINGH .....Respondent

Through: Mr. Jitesh Pandey, Mr. Aniket Singh, Mr. Chandan Singh Bisht and Mr. Naman Arora, Advocates

CORAM:
HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. The present writ petition under Articles 226 and 227 of the Constitution of India (the Constitution) has been filed by the respondent/management in LIR No. 2917/2016 on the file of the Labour Court-XIX, Dwarka Courts, New Delhi aggrieved by the Award dated 04.12.2018, by which the claim of the claimant/workman was allowed and reinstatement with 50% back wages along with continuity of service or in the alternative, lump-

sum compensation of ₹3,00,000/- in lieu of reinstatement was granted.

2. The parties in this writ petition will be referred to as described in the statement of claim filed before the Labour Court.

3. Brief facts emerging from the records, which are necessary for the adjudication of the writ are: The claimant was employed with the respondent/management as "Helper" since 08.07.2010, drawing wages of ₹7,200/- per month. According to the claimant, the respondent/management failed to comply with the statutory obligations like issuance of the appointment letter, attendance card, wage slips, leave book etc. When he made repeated demand of his legal facilities, the respondent/management withheld his wages from September 2012 to November 2012.

3.1. On 26.11.2012, when he insisted for his lawful dues for the months of September 2012 to November 2012, the respondent/management terminated his services without complying with the mandatory conditions of retrenchment laid

down in Section 25-F of the Industrial Disputes Act, 1947 (the ID Act). He was neither served with any notice, nor any domestic inquiry was conducted by the management before terminating him. Instead, the management refused to allow him to resume his work. When he took efforts to report back on duty immediately after his termination, the respondent/management threatened him with dire consequences.

3.2. The claimant remained unemployed thereafter, despite earnest efforts to secure alternative employment. A demand notice dated 14.12.2012 was served on the management demanding reinstatement with back wages. However, the management did not respond. Hence, the claim seeking reinstatement with back wages.

4. The respondent/management filed written statement denying the allegation that the claimant had been employed since July 2010. According to them, the claimant approached the management for the very first time on 04.11.2012, seeking a temporary daily-wage work as "Helper". The claimant/workman

was engaged with its establishment for a very short period of time. The claimant/workman worked for only a few days between 04.11.2012 and 25.11.2012 and thereafter, he voluntarily absented himself from his duty from 26.11.2012, without furnishing any explanation or intimation.

4.1. The claimant never completed 240 days of continuous service in twelve months preceding the termination. Hence, the claimant is not entitled to be covered under Section 25-F of the ID Act. On the strength of the muster roll and an Employees' State Insurance (ESI) declaration form, it was contended that the claimant's joining date was 04.11.2012 and not 08.07.2010. The claimant/workman had never been terminated. On the other hand, he had abandoned his employment.

5. On completion of pleadings, necessary issues were framed by the Labour Court. The parties went to trial on the basis of aforesaid pleadings. The claimant examined himself as WW-1 and his affidavit in lieu of chief examination has been marked as

Exhibit WW1/A. Exhibits WW1/1 to WW1/6 were also marked. The respondent/management filed affidavit in lieu of chief examination of Rajat Manchanda, partner of the management and produced Exhibit MW-1/1. However, he did not present himself for cross-examination. The Labour Court, *vide* order dated 02.11.2018 closed the evidence of the management. Subsequently, the Labour Court also dismissed the application moved by the management to set aside the order dated 02.11.2018 *vide* order dated 26.11.2018 and proceeded to pass the impugned award dated 04.12.2018.

6. Aggrieved thereby, the respondent/management has approached this court invoking the writ jurisdiction.

7. There was no representation for the respondent/management when the matter was taken up for hearing. However, written submissions have been placed on record. Hence, the same is being considered. In the written submissions, it is stated that the claimant's allegation of having been appointed on

08.07.2020 as "Helper" is not supported by any documentary evidence. The inconsistency in the claimant's testimony has been pointed out. The contentions in the written statement are reiterated. The muster rolls, that is referred to as Exhibit MW-1/1 in the affidavit filed in lieu of chief examination, and the ESI declaration form marked B are relied on to show that the claimant's date of appointment is 04.11.2012.

7.1 It is also contended that though several allegations against the management regarding denial of legal facilities and improper conduct of the employer etc. have been raised, there are no materials on record to show that the claimant complained against the same during the period of his employment from 08.07.2010 to 26.11.2012. On the other hand, the first complaint was raised by the claimant on 10.12.2012 *vide* letter Exhibit WW1/1; and the demand notice issued by the claimant dated 07.03.2013. Exhibit WW1/4, was issued months after the alleged termination.

7.2. It is also urged that the Labour Court erred in awarding ₹3,00,000/- in lieu of service which was hardly for two years and four months, even going by the claimant's version.

8. *Per contra*, the learned counsel for the claimant submitted that the testimony of the workman examined as WW1 has not been discredited in any way. The oral and documentary evidence adduced by the claimant/workman proves his case. Therefore, the onus had shifted to the respondent/management to disprove it. However, the management, the custodian of the statutory records, failed to produce any of the same and hence an adverse inference needs to be drawn. To augment his contention, the learned counsel would rely on the dictum of **Goverdhan vs. Chief Municipal Officer, MANU/MP/3770/2024**.

8.1. It was pointed out that the management failed to produce any kind of statutory documents including the ESI declaration form and the muster rolls before the Labour inspector and had presented the same before the Labour Court for the first time with

an intention to mislead the ongoing proceedings. Reliance was placed on the dictum in **Gopal Krishnaji Ketkar vs. Mohamed Haji Latif, 1968 SCCOnline SC 63**, which holds that concealment or non-production of relevant evidence permits the court to draw an adverse inference under Section 114(g) of the Indian Evidence Act, 1872 (the Evidence Act), as the deliberate withholding of material documents justifies the presumption that such evidence, if produced, would have been unfavourable to that party. The learned counsel also relied on the dictum in **Sabarkantha District Panchayat vs. SomajiKankaji Damor, 2011 SCC OnLine Guj 1721**, in which it has been held that if the employer fails to produce the relevant employment records in the initial stage, the Labour Court is justified in drawing an adverse inference against the employer and holding the termination to be in violation of Section 25F of the ID Act.

8.2. It was further submitted that the writ petition, merely seeks reappreciation of the evidence which is impermissible.

Reliance was placed on the dictum in **Krishnanand vs. Deputy Director of Consolidation, MANU/SC0990/2014**, wherein the Apex Court has held that the High Court under Article 226 do not reappreciate factual findings unless they are perverse or unsupported by evidence. Similarly, reliance was also placed on the decision in **Shalini Shyam Shetty vs. Rajendra Shankar Patil, MANU/SC/0508/2010**, which affirms that the writ jurisdiction of the High court is supervisory and not appellate, and cannot be invoked in order to substitute one possible view with another. The learned counsel also relied on **Samarendra Das vs. Win Medicare Pvt. Lts., MANU/DE/7710/2025**, in which a Coordinate Bench of this Court reiterated that when the Labour Court award is challenged, this Court is to examine as to whether the tribunal acted within the jurisdiction.

9. Heard both sides and perused the records.

10. On a perusal of the records, certain foundational facts stand settled and undisputed. It is not in dispute that the claimant

worked with management in the month of November 2012. It is also apparent that the management did not issue any notice requiring the claimant to resume his duties after 26.11.2012, nor did it conduct any disciplinary inquiry, nor was there any compliance with the mandatory requirements of Section 25F of the ID Act. It is further evident that the management has failed to produce any relevant statutory employment records, including the muster rolls, wage registers, attendance registers or PF/ESI records before the Labour Inspector on 19.12.2012, despite being legally obliged to furnish the same.

11. In the backdrop of the rival submissions advanced, the principal issue that falls for consideration before this Court is to ascertain whether the Labour Court's finding that the claimant's termination was illegal, suffers from any perversity or non-consideration of material evidence, warranting interference under Article 226 of the Constitution.

12. Before I proceed, at this stage, it is necessary to recall the

well -settled legal position regarding the burden and onus of proof in cases alleging illegal termination. The initial burden is upon the workman/claimant to prove the engagement and the duration of service. Once, such foundational evidence is laid, the onus shifts to the employer/management, who being the custodian of all the statutory documents, has to produce the same.

13. The respondent/management heavily relied upon the ESI declaration form to establish that the claimant/workman was appointed only on 04.11.2012. Such a declaration merely reflects the date on which the employer chose to register the employee with the ESI authorities, and hence, the same cannot, in isolation, be treated as a conclusive proof of the commencement of the employment. Also, it is important to note that the management failed to produce the documents when it was called upon by the Labour Inspector, in the initial stage.

14. Further, on behalf of the respondent/management, one Rajat Manchanda, partner of the management is seen to have filed

affidavit in lieu of chief examination in which he refers to the muster roll for the period from August 2012 till December 2012 as Exhibit MW1/1. However, he never offered himself for cross examination despite opportunity being provided. Hence, the said document has neither come on record nor has it been proved. Even assuming for argument sake that the muster roll produced by the management for the months of November-December 2012, is taken into consideration, the document still remains insufficient to discharge the management's statutory burden. The claimant has asserted that he had been working with the management since 08.07.2010, and once such foundational assertion was made on oath, it became incumbent on the management to produce the complete set of muster rolls, wage registers, and attendance records for the period from 2010 to 2012 in order to rebut the claimant's assertion. It is also apposite to note that the management did not adduce any evidence with respect to payment of the wages to the claimant even for the limited period to which it

admits the claimant had worked in the month of November 2012.

15. The plea of abandonment as raised by the management has also been established as no evidence has been led by the respondent/management.

16. Further, the scope of judicial review under Article 226 of the Constitution is also well settled. This Court does not have the jurisdiction to sit in appeal over the factual findings of the Labour Court and cannot reappreciate the evidence, merely because another view can be taken. Interference is warranted only when the findings suffer from perversity or is arbitrary or is unsupported by the evidence. As held in **Krishnanand** (*supra*) this Court cannot substitute its own factual conclusions for those of the tribunal. Similar view has been adopted in **Shalini Shyam Shetty** (*supra*) that the writ jurisdiction is supervisory and not appellate.

17. In the view of the aforesaid discussion, this Court finds no perversity or illegality in the Labour Court's conclusion in the impugned Award.

18. Accordingly, the writ *sans* merit is dismissed. Application(s), if any pending, shall stand closed.

CHANDRASEKHARAN SUDHA
(JUDGE)

DECEMBER 11, 2025/ABP