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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% Date of Decision: 03.09.2026# **CNR No. DLHC010064552018**+ **W.P.(C) 13928/2018 and CM APPL. 54494/2018**

THE MANAGEMENT OF CAFE
COFFEE DAY (A DIVISION OF ABCTCL)Petitioner
Through: Mr. Bipin Kalappa, Advocate

versus

LABOUR SECRETARY & ANRRespondents
Through: Ms. Avni Singh, PC, GNCTD.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present petition has been filed by the petitioner/'Management of Cafe Coffee Day (a division of ABCTCL)' under Articles 226 and 227 of the Constitution of India assailing the order dated 08.08.2018, whereby the Labour Court dismissed the petitioner's application under Order IX Rule 7 CPC seeking setting aside of the *ex-parte* order dated 15.07.2015; the order dated 05.10.2018 dismissing the subsequent application seeking setting aside of the *ex-parte* Award; as well as the Award dated 09.08.2018 passed by the learned Presiding Officer, Labour Court-V, Dwarka Courts, in ID No. 6084/2016. The Award had directed reinstatement of



respondent no. 2/workman with full back wages, continuity of service and all consequential benefits.

2. The dispute was referred to the Labour Court in terms of the following reference:-

“Whether the workman Sh Anil Kumar Sharma S/o Sh. Vrijmohan has been absenting from his duties on his own or his services have been terminated illegally and/or unjustifiably by the management; and if so, to what relief is he entitled and what directions are necessary in this respect?”

3. As per the claim of respondent no. 2, he had been employed with the petitioner since 19.12.2011 as an ‘Area Supervisor Training Operation’ and his last-drawn monthly salary was Rs.8,048/-. He alleged that upon demanding various employment benefits, his services were terminated on 10.04.2013 without notice and without payment of earned wages for the period from 01.04.2013 to 10.04.2013. He thereafter issued a demand notice dated 27.08.2013 and approached the Labour Department, pursuant to which the aforesaid reference came to be made.

4. Learned counsel for the petitioner contends that the petitioner had no knowledge of the underlying proceedings before the Labour Court till about December 2017 and that its non-appearance was neither deliberate nor intentional. It is further contended that respondent no. 2 had been working at *Gurgaon*, that he had voluntarily abandoned his employment, and that the Labour Court at *Dwarka* lacked the territorial jurisdiction to adjudicate the present *lis*. It is also contended that the Labour Court ought to have allowed the petitioner’s



application under Order IX Rule 7 CPC and afforded it an opportunity to contest the claim on merits.

5. Learned counsel for respondent no. 2, on the other hand, submits that the petitioner was duly served before the Labour Court and deliberately did not participate in the proceedings. It is submitted that the petitioner moved the application under Order IX Rule 7 CPC only after the matter had substantially progressed and the workman had already concluded his evidence. It is further submitted that the findings returned in the Award are based on documentary evidence produced by the workman and do not warrant interference in exercise of the limited writ jurisdiction of this Court.

6. This Court has considered the submissions and perused the record.

7. It is required to be noted that the jurisdiction exercised by this Court under Articles 226 and 227 of the Constitution of India is supervisory in nature. The Court does not sit as an appellate Court over the findings returned by the Labour Court. In Syed Yakooob v. K.S. Radhakrishnan¹, the Supreme Court has held that findings of fact arrived at by a Tribunal on appreciation of evidence cannot ordinarily be reopened in writ proceedings. Interference is warranted only where there is an error of law apparent on the face of the record, the finding is based on no evidence, or material/admissible evidence has been improperly excluded or inadmissible evidence has materially influenced the finding.

¹ AIR 1964 SC 477



8. The order dated 15.07.2015 clearly records that the petitioner had been duly served and that, despite repeated calls, none appeared on its behalf. The petitioner was accordingly proceeded *ex-parte*. The proceedings were allowed to continue without seeking recall of the said order for more than two years. It was only on 22.12.2017 that the petitioner entered appearance and moved the subject application under Order IX Rule 7 CPC. The said application was considered by the Labour Court and dismissed *vide* order dated 08.08.2018. The Labour Court, *inter alia*, noted that the application had been signed by one *Sh. Bhuwan Singh*, but no authority letter in his favour had been filed. The explanation furnished by the petitioner regarding the date on which it had acquired knowledge of the proceedings was also held to not be satisfactory.

9. The petitioner already having been proceeded *ex-parte*, final arguments were led on behalf of only respondent no. 2, and the impugned Award came to be pronounced on 09.08.2018. Upon considering the evidence led by respondent no. 2, including his identity card, appointment letter, and attendance punching card, the Labour Court held that the employer-employee relationship between the parties stood established. Since the said evidence remained uncontroverted and unrebutted, the Labour Court concluded that the services of respondent no. 2 had been illegally terminated, and consequently granted him reinstatement with full back wages, continuity of service, and consequential benefits.

10. Thereafter, the petitioner moved another application seeking setting aside of the Award dated 09.08.2018. *Vide* the impugned order



dated 05.10.2018, the Labour Court noted that the grounds raised in the said application were exactly the same as those taken in the petitioner's earlier application under Order IX Rule 7 CPC and, dismissed the same.

11. Insofar as the challenge to the Award on merits is concerned, the Labour Court did not base its conclusion merely on the uncontroverted oral testimony of respondent no. 2, but also relied upon the documentary evidence placed on record (Exhibits WW1/6 to Ex. WW1/8).

12. The contentions that respondent no. 2 had voluntarily abandoned his employment and that he had been working at *Gurgaon* are disputed questions of fact. The petitioner had the opportunity to place its version before the Labour Court, but failed to do so despite due service. An attempt to get the said factual controversy examined for the first time under writ jurisdiction cannot be permitted. The sufficiency or adequacy of the evidence on the basis of which the Labour Court returned its findings cannot be re-appreciated by this Court in exercise of its supervisory jurisdiction under Articles 226 and 227 of the Constitution.

13. The challenge to the Labour Court's territorial jurisdiction also does not persuade this Court. The reference was made by the competent authority of the Government of NCT of *Delhi* to the Labour Court, *Dwarka*, and the petitioner, despite having notice of the proceedings, did not raise or establish the said objection before the Labour Court at the appropriate stage. In any event, the bald assertion that the respondent was working at *Gurgaon* cannot, in the absence of



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a proper factual foundation, constitute a ground for interference with the Award in the present writ proceedings.

14. In view of the aforesaid, this Court finds no jurisdictional error, perversity or violation of principles of natural justice in the orders dated 08.08.2018 and 05.10.2018 or in the Award dated 09.08.2018. The petitioner, having failed to avail the opportunity granted to it before the Labour Court, cannot seek a fresh adjudication in the present proceedings to have another opportunity to contest the claim on merits.

15. Accordingly, the present petition is dismissed.

16. The award amount deposited by the petitioner with the Registry is directed to be released to respondent no. 2, along with interest accrued thereupon, if any. The remaining amount payable under the impugned Award shall be paid by the petitioner to respondent no. 2 within a period of 4 weeks.

17. The pending application is also disposed of in the above terms.

(MANOJ KUMAR OHRI)
JUDGE

SEPTEMBER 3, 2026

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corrected and released on 15.09.2026