



2026:DHC:3957



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

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Reserved on: 19.03.2026

Pronounced on: 05.05.2026

Uploaded on: 06.05.2026

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W.P.(C) 11179/2019

HARI SHANKAR

.....Petitioner

Through: Mr. Abhishek Singh, Ms. Priyanka
and Mr. Karan Chaudhary, Advocates

versus

GOVT. OF NCT OF DELHI AND ORS.Respondent

Through: Ms Avni Singh Panel Counsel
GNCTD for Respondent GNCTD,
Mr. Rajiv Arora, Advocate for
respondent nos. 2 & 3

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present writ petition is directed against the Award dated 06.02.2019 passed in LIR No. 2404/16 (Old I.D. No. 546/11) by the learned Presiding Officer, Labour Court-IX, Dwarka Courts, New Delhi, whereby the claim of the petitioner-workman seeking reinstatement with back wages has been dismissed.

2. The case of the claimant, as set out in the claim petition, is that he was employed with the respondent-management as a *Sample-man* and was drawing wages of Rs. 5,000/- per month, w.e.f. 03.12.2002 and continued in



service till 15.05.2010. It was alleged that during the course of employment, he was not extended statutory benefits such as overtime wages, leave benefits, bonus and other service entitlements. The claimant further averred that on 15.05.2010, upon demanding his lawful dues, the management terminated his services without issuing any notice, and without payment of retrenchment compensation.

3. In evidence, the workman examined himself as WW-1 and reiterated his case by way of affidavit (Ex. WW-1/A). He relied upon documents marked as Mark 'A' (copy of the list of 62 employees whose ESI Smart Forms submitted with ESI on 05.11.2009 and Mark 'B' (copies of gate passes).

4. The workman also examined WW-2 (LDC, Labour Department), who proved the complaint filed before the Assistant Labour Commissioner (Ex. WW-2/1), WW-3 (Public Relation Inspector), who proved the communication regarding non-maintenance of UPC records (Ex. WW-3/1), and WW-4 (UDC, Chief Minister's Office), who proved the dispatch of the complaint (Ex. WW-4/1). However, all these witnesses admitted that they had no personal knowledge regarding the employment of the workman with the management, and their evidence was confined to proving official records of complaints.

5. On the other hand, the management examined its Director as MW-1, who denied the existence of any employer-employee relationship. The testimony of MW-1 remained unshaken on material aspects during cross-examination.

6. Before this Court, learned counsel for the petitioner contended that the Labour Court failed to appreciate the material placed on record. It was



submitted that the petitioner had adduced both oral as well as documentary evidence to establish his employment with the respondent-management. Particular reliance was placed on the copy of the list of 62 employees whose ESI Smart Forms submitted with ESI on 05.11.2009 and the gate passes, which, according to the petitioner, clearly demonstrated that he was working in the establishment of the respondent.

7. Per contra, learned counsel for the respondent-management supported the impugned Award and submitted that the petitioner had failed to discharge the initial burden of proving the existence of an employer-employee relationship. It was contended that the documents relied upon by the petitioner do not constitute proof of employment and at best show access to the premises. It was further submitted that none of the witnesses examined by the petitioner had any personal knowledge of his alleged employment, and their testimonies do not establish the foundational facts required in law. It was also argued that the findings recorded by the Labour Court are based on appreciation of evidence and do not suffer from any perversity or illegality.

8. I have heard learned counsel for the parties and perused the material on record.

9. It is well settled that the jurisdiction of this Court under Article 226 of the Constitution of India, while examining an award rendered by a Labour Court or Industrial Tribunal, is supervisory and not appellate in nature. The writ court does not sit in appeal over the findings returned by the adjudicatory forum. Interference with an award is warranted only where the findings are shown to suffer from jurisdictional error, patent illegality, perversity, or are based on no evidence whatsoever. In the absence of such



infirmities, the Writ Court must exercise restraint and refrain from disturbing the conclusions arrived at by the Labour Court, which is the primary fact-finding authority under the statutory scheme. In this regard, reference may be made to the decisions of the Supreme Court in Syed Yakoob v. K.S. Radhakrishnan¹.

10. In the present case, the finding of the Labour Court that the petitioner failed to establish employer-employee relationship is based on appreciation of evidence on record. It cannot be said that such finding is perverse or based on no evidence. The documents relied upon by the petitioner were not duly proved, and the oral evidence does not establish the relationship in question. Thus, no ground for interference within the parameters laid down in Syed Yakoob (*supra*) is made out. The burden to prove such relationship lies squarely upon the workman. Mere assertions, without substantive evidence, are insufficient to discharge this burden.

11. A perusal of the record shows that the petitioner, in support of his case, led evidence by way of affidavit filed no documentary material except a copy of the list of 62 employees whose ESI Smart Forms were submitted with ESI on 05.11.2009 and conciliation record forming part of the reference. Concededly, the said list does not include the name of Workman. Likewise, the Gate passe do not bear any stamp and by themselves, do not establish the existence of an employer-employee relationship. Significantly, the petitioner has not placed on record any primary documentary evidence to establish such relationship.

12. The oral evidence led by the petitioner also does not advance his case. The witnesses examined on his behalf admittedly had no personal

¹ AIR 1964 SC 477



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knowledge of his alleged employment. Their testimonies, therefore, do not establish the foundational fact necessary for grant of relief. In contrast, the categorical denial by the management, coupled with the absence of any cogent evidence on behalf of the petitioner, assumes considerable significance.

13. The Labour Court, upon appreciation of the entire material on record, has returned a finding that the petitioner failed to establish the relationship of employer and employee. This is a finding of fact based on evidence and cannot be said to be perverse or based on no evidence.

14. In view of the aforesaid, this Court finds no ground to interfere with the impugned Award.

15. Accordingly, the present writ petition is dismissed and the impugned Award dated 06.02.2019 is upheld.

MANOJ KUMAR OHRI
(JUDGE)

MAY 05, 2026

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