



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

% Reserved on : 19.03.2026
Pronounced on : 05.05.2026
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+ **W.P.(C) 11193/2019**

SH. SURAJ NATH

....Petitioner

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

versus

STATE (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 13.12.2019, in LIR no. 2107/16 (old I.D. no 542/11) passed by the Ld. learned Presiding Officer, Labour Court no. IX, Dwarka Courts, New Delhi, whereby the claim application filed by the petitioner (hereinafter as the "workman") came to be dismissed for the reason that workman failed to establish that there was 'employer-employee' relationship between him and the respondent No. 3 (hereinafter as the "management").



2. In the claim application, it was averred that the workman was in the employment of the management since the year 1992 and was working as a “Spotter”, and his last drawn salary was Rs. 4,750/- per month. The Management was doing its work under various names such as Madhu Chawla and other names. It was further claimed that the workman was not provided with any legal benefits i.e., bonus, funds, leave benefits, overtime dues and other job benefits. When the workman demanded his dues with full back wages and other legal faculties, his services were terminated without giving any notice or retrenchment. It was further alleged that at the time of joining the management had taken signatures of the workman on blank papers. The workman had claimed that he was employed with M/s Madhu Chawla Design Trend (P) Ltd. which was running various establishments from the same office i.e. C-50, Okhla Industrial Area, Phase II, New Delhi.

The management contested the claim application and specifically denied the existence of any employer-employee relationship between the parties. It was further claimed that the workman was employed by a contractor namely *M/s B.M. Stitchcrafts*.

3. Before this Court, learned counsel for the workman contended that the Labour Court failed to appreciate that the workman had filed supporting documents alongwith his claim such as ESI Smart Card, letters received by him from LIC, premium receipts from LIC reflecting the address of the management and Gate passes issued in name of workman.

4. On the other hand, learned counsel for the management defended the impugned Award and contended that findings of facts recorded by the Labour Court ought not to be interfered with and emphasised on the limited



scope of writ jurisdiction while referring to the decision of Syed Yakoob v. K.S. Radhakrishnan & Ors¹

5. I have heard the learned counsels for the parties and perused the material available on record.

6. Indeed, in Syed Yakoob (Supra) and MCD v. Aasha Ram & Anr.², the Courts have emphasised on the limited scope of exercise of powers under Article 226 of the Constitution of India as the same is confined to errors of jurisdiction, non adherence of principles of natural justice and perversity in the decision.

7. The documents placed on record, including the complaints filed before the labour authorities and the reference itself, indicate that the petitioner had been asserting his claim of employment contemporaneously. Though such documents may not, in isolation, be conclusive proof of the existence of employer-employee relationship, they constitute sufficient *prima facie* material to discharge the initial burden cast upon the workman.

8. The defence of the management, as reflected in its written statement, is a mere denial of the existence of employer-employee relationship. No material has been placed on record to substantiate such denial. Notably, no documentary has been produced.

9. It is well settled that while the initial burden to establish the existence of employer-employee relationship lies upon the workman, such burden is not required to be discharged to the extent of proving the case beyond doubt. Once the workman places on record *prima facie* material, the onus shifts upon the management to rebut the same by producing relevant records in its

¹ (1964) 5 SCR 64.

² 2005 (80) DRJ 750



possession.

10. In *Bharat Heavy Electricals Limited vs. Mahendra Prasad Jakhmola and Others*³, the Supreme Court explained the expression ‘control and supervision’. The relevant extracts are as under:

“22. The expression “control and supervision” were further explained with reference to an earlier judgment of this Court as follows: (Bengal Nagpur Cotton Mills case [Bengal Nagpur Cotton Mills v. Bharat Lal, (2011) 1 SCC 635 : (2011) 1 SCC (L&S) 16] , SCC pp. 638-39, para 12)

“12. The expression “control and supervision” in the context of contract labour was explained by this Court in International Airport Authority of India v. International Air Cargo Workers' Union [International Airport Authority of India v. International Air Cargo Workers' Union, (2009) 13 SCC 374 : (2010) 1 SCC (L&S) 257] thus: (SCC p. 388, paras 38-39)

‘38. ... if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor...’

23. From this judgment in Bengal Nagpur Cotton Mills case [Bengal Nagpur Cotton Mills v. Bharat Lal, (2011) 1 SCC 635 : (2011) 1 SCC

³ (2019) 13 SCC 82



(L&S) 16] , it is clear that Test No. 1 is not met on the facts of this case as the contractor pays the workmen their wages. Secondly, the principal employer cannot be said to control and supervise the work of the employee merely because he directs the workmen of the contractor “what to do” after the contractor assigns/allots the employee to the principal employer. This is precisely what para 12 of Bengal Nagpur Cotton Mills case [Bengal Nagpur Cotton Mills v. Bharat Lal, (2011) 1 SCC 635 : (2011) 1 SCC (L&S) 16] explains as being supervision and control of the principal employer that is secondary in nature, as such control is exercised only after such workman has been assigned to the principal employer to do a particular work.

24. We may hasten to add that this view of the law has been reiterated in Balwant Rai Saluja v. Air India Ltd. [Balwant Rai Saluja v. Air India Ltd., (2014) 9 SCC 407 : (2014) 2 SCC (L&S) 804] , as follows: (SCC pp. 437-38, para 65)

“65. Thus, it can be concluded that the relevant factors to be taken into consideration to establish an employer-employee relationship would include, inter alia:

- (i) who appoints the workers;
- (ii) who pays the salary/remuneration;
- (iii) who has the authority to dismiss;
- (iv) who can take disciplinary action;
- (v) whether there is continuity of service; and
- (vi) extent of control and supervision i.e. whether there exists complete control and supervision.

As regards extent of control and supervision, we have already taken note of the observations in Bengal Nagpur Cotton Mills case [Bengal Nagpur Cotton Mills v. Bharat Lal, (2011) 1 SCC 635 : (2011) 1 SCC (L&S) 16] , International Airport Authority of India case [International Airport Authority of India v. International Air Cargo Workers' Union, (2009) 13 SCC 374 : (2010) 1 SCC (L&S) 257] and Nalco case [NALCO Ltd. v. Ananta Kishore Rout, (2014) 6 SCC 756 : (2014) 2 SCC (L&S) 353] .”

11. In the present case, the Award has been challenged on being arbitrary and perverse. A perusal of the records would show that the workman claimed that he was employed with the management and in support of this, has also filed above-noted documents. The management filed its written statement and set up a defence of being the principal employer. It was



claimed that the workman might have been deployed through the contractor *M/s B.M. Stitchcrafts*. In other words, the management claimed that it had no direct control over the workman and thus, denied the existence of any employer-employee relationship. But notably, the management admitted complying statutory provisions of deduction of ESI and PF contributions of the workman and depositing the same with the authority. The relevant extract from the written statement by the management is reproduced herein below:

“2...Since, duty is cast upon the principle employer, i.e., answering management for compliance of statutory provisions of deduction of ESI and PF and as said contractor M/s B.M. Stitch Craft did not have its own ESI & PF code numbers, the same was deposited by the management on behalf of the employee of M/s B.M. Stitch Craft, who was working in the establishment of the management, under its own ESI & PF Code and the amounts so deposited by the management towards ESI & PF on behalf of employees of the contractor, used to be deducted by the answering management from the bills raised by contractor M/s B.M. Stitch Craft for the manpower supply.”

12. In his evidence, the Workman has relied on ESI card and other above noted documents. In his evidence, the Workman has stated the Management was run under various names including in the name of *Madhu Chawla*. The workman denied being employed through the Contractor and claimed that his salary was paid by the management. In cross-examination, the Workman replied that he used to get salary after signing the wages register of the respondent-Management. It was specifically denied that he was paid salary by the alleged contractor. The Management witness-Robin Arora, in his cross examination admitted that at time of filing of ESI/PF returns, neither



signature of the concerned workman is required nor he becomes aware of the same. The witness further admitted that claims of 6 other workmen were allowed by the labour court. *Madhu Chawla* was admitted to be one of the Directors of the respondent Management. He further admitted that from the premises at C-50, an export company was also operating and it could have been possible that some employees from M/s Madhu Chawla Exports were also employed with the respondent Management. Interestingly, in the claim proceedings, the Workman has filed 'Gate Passes' that were issued in his name. The said passes bear not only stamp of M/s Madhu Chawla Exports but also mentions the same address i.e., C-50 Okhla Phase II which is also the address of respondent Management. The witness had also admitted that it not filed any bills raised by the Contractor. Further, the management did not summon the said Contractor to establish its case.

13. The burden shifted upon the management to rebut the same. However, the management has failed to produce any material to demonstrate to the contrary. No document was brought on record which would established that the Management had a different ESI code allotted to it. A mere denial, in the absence of supporting evidence, is insufficient to dislodge the case set up by the workman.

14. In view of the peculiar facts and circumstances of the present case, the prolonged litigation spanning several years and the impracticability of reinstatement at this stage, this Court is of the considered opinion that the ends of justice would be adequately met by awarding lump-sum compensation in lieu of reinstatement and back wages. Consequently, the respondent-management is directed to pay a sum of Rs. 5,00,000/- (Rupees



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Five Lakhs only) in four weeks whereafter, an interest @12% would be leviable.

15. Accordingly, the appeal is disposed of.

**MANOJ KUMAR OHRI
(JUDGE)**

MAY 5,2026

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