



2026:DHC:3959



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

% Reserved on: 19.03.2026
Pronounced on: 05.05.2026
Uploaded on: 06.05.2026

+ **W.P.(C) 11267/2019**

SH. BINOD KUMAR

.....Petitioner

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

Versus

(GOVT. OF NCT OF DELHI) AND ORS.Respondents

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 05.02.2019 passed in LIR No. 497/2016 (Old I.D. No. 558/11) by the learned Presiding Officer, Labour Court-IX, Dwarka Courts, New Delhi, whereby the claim petition filed by the petitioner/workman has been dismissed.

2. The case of the petitioner/workman, as set up before the learned Labour Court, was that he had been in the continuous employment of the respondent-management since 10.06.1992 and was working as a “*Karigar* (Master)”, drawing last wages of approximately Rs. 4,450/- per month. The



Management was doing its work under various names such as Madhu Chawla and other names. It was averred that he rendered long and satisfactory service and was not extended statutory benefits such as overtime wages, leave benefits, bonus and other service benefits. Upon raising demands for such lawful dues, the management terminated his services on 15.05.2010 without issuing any notice, or any enquiry and without payment of retrenchment compensation.

3. The case of the respondent-management was that there existed no relationship of employer and employee between the parties and that the petitioner was never in its employment.

4. Before this Court, learned counsel for the petitioner/workman contended that the Labour Court erred in holding that the petitioner failed to establish the existence of employer-employee relationship between them. It was submitted that the petitioner had led evidence in support of his case, including copies of inland letters (Ex. WW1/1), a photocopy of the ESI Card (Mark 'A'), and a copy of the list of 62 employees whose ESI Smart Forms submitted with ESI on 05.11.2009 (Mark 'B') along with his affidavit. It was urged that the learned Labour Court failed to properly appreciate the said material and erroneously discarded the same.

5. *Per contra*, learned counsel for the respondent-management supported the impugned Award and submitted that the findings recorded by the Labour Court are based on proper appreciation of evidence and do not warrant interference in exercise of jurisdiction under Article 226 of the Constitution of India. It was contended that the petitioner had failed to discharge the burden of proving the existence of employer-employee relationship and that the documents relied upon by him were rightly held to be insufficient.



Reliance was placed on the decision in *Syed Yakoob v. K.S. Radhakrishnan & Ors*¹.

6. I have heard learned counsels for the parties and perused the material placed on record.

7. It is well settled that the scope of interference under Article 226 of the Constitution of India is limited. Unless the findings returned by the Labour Court are shown to be perverse or based on no evidence, this Court would not re-appreciate the evidence or substitute its own view.

8. 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.

9. 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.

10. 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 possession.

¹ (1964) 5 SCR 64.



11. In this context, it is apposite to refer to the decision of the Hon'ble Supreme Court in Bharat Heavy Electricals Limited v. Mahendra Prasad Jakhmola & Ors.², wherein it has been held that factors such as appointment, payment of wages and control and supervision are relevant in determining the existence of an employer-employee relationship. The expression "control and supervision" has been explained 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...'

² (2019) 13 SCC 82



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

12. Applying the aforesaid principles to the facts of the present case, 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*. In cross-examination, the Workman replied that he used to get salary after signing the wages register of the respondent-Management. A suggestion given that the ESI card did not belong the Management was denied. 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 in his name . The said passes bear not only stamp of issued by 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.

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



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compensation in lieu of reinstatement and back wages. Consequently, the respondent-management is directed to pay a sum of Rs. 5,00,000/- (Rupees 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 05, 2026

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