



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

% Date of Decision: 07.07.2025

+ **W.P.(C) 8526/2024, CM APPLs 34995/2024, 34997/2024 and 1233/2025**

M/S DERIVE N FILL (DEALER HINDUSTAN PETROLEUM CORPORATION LTD) THROUGH

MS. BHAVNA GOYALPetitioner

Through: Mr. Banka Bihari Panda, Mr. Lokesh Bharti and Ms. Komal Sharma, Advocates.

versus

SHRI. GERMANI PRASADRespondent

Through: Mr. Raj Rishi, Advocate with respondent in person.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present writ petition filed under Articles 226 and 227 of the Constitution of India, the petitioner seeks setting aside of the award dated 24.11.2023 (hereinafter, '*impugned award*') passed by the Presiding Officer, Labour Court-07, Rouse Avenue Courts, New Delhi, whereby the management/petitioner herein was directed to reinstate the workman/respondent and to pay him 50% back wages.

2. The facts, in a nutshell, are that the workman was employed with the management in the capacity of Petrol Pump Operator since 01.08.2007 and his last drawn wages were Rs.4,200/- per month. It was the workman's claim that the management failed to provide him legal facilities as well as



monthly wages, and was only paying him the amount earned from overtime by way of voucher. Upon the workman demanding his salary from the management, he was allegedly illegally terminated on 28.02.2015. It is in this context that the workman preferred a complaint before the Labour Department through the Union and the matter was referred for conciliation. However, the parties failed to settle the matter before the Conciliation Officer, leading to the initiation of proceedings before the Labour Court.

3. Learned counsel for the petitioner challenges the impugned award by contending that the workman falsely alleged illegal termination and non-payment of wages before the Labour Court. It is contended that the workman voluntarily left his job after taking his salary from the management. Moreover, it is submitted that the workman suppressed material facts before the Labour Court and acted dishonestly during the course of his employment, indulging in short supply of fuel to the customer, as a result of which, multiple complaints were made against him. In support of his submission, learned counsel places reliance on an Apology Letter dated 12.12.2014, which was statedly written by the workman, acknowledging his misconduct and voluntary absence from work and requesting reinstatement. It is also pointed out that the workman was duly confronted on this aspect with the original copy of the said Apology Letter during the cross-examination. Further, reference is made to the impugned award, wherein it is stated that the Labour Court noted that there was a clear admission on part of the workman of being involved in giving less fuel/petrol to the customers.

Learned counsel further submits that the petitioner/management's right to lead evidence was arbitrarily closed on 09.11.2022, denying the



management opportunity to rebut the workman's claim with further documentary evidence or examine any witness on its behalf.

4. *Per contra*, learned counsel for the respondent/workman defends the impugned award and submits that the workman was initially denied legal facilities in the nature of minimum wages, P.F., bonus, attendance card, attendance register, leave book, pay slip, appointment letter, festive off etc., and merely paid amount earned in overtime by way of voucher, on the pretext of being paid the outstanding monthly wages at the time of the workman going to visit his village. However, upon demanding so, the services of workman were illegally terminated on 15.03.2015, without prior notice or payment and in fact, it is stated that he was also given a beating by the management. It is further submitted that even after initiating a complaint before the Labour Department, he was neither paid wages nor reinstated. Moreover, all the allegations made by the management in its Written Statement filed before the Labour Court was duly refuted by the workman in his rejoinder and it is contested that the workman's testimony corroborated his claim.

It is further pointed out that the management failed to lead evidence to prove its allegations of dishonesty and voluntary absenteeism from work against the workman, despite being given 23 dates for leading evidence, starting from 17.05.2017, only after which, the management's right to lead evidence was duly closed on 09.11.2022. Attention of this Court is drawn to the impugned award, which records that the management was given numerous opportunities to lead evidence to prove its stand, however, it failed to examine any witnesses or lead evidence. In regard to the petitioner's contention as to the Apology Letter, it is submitted that the same



was not exhibited before the Labour Court and no affirmative evidence was led by the petitioner to prove the same. In fact, when the workman was confronted with the same during his cross-examination, he had duly denied his signatures on it.

5. I have heard learned counsels for the parties and gone through the material on record.

6. Evidently, there is no dispute as to the employer-employee relationship between the parties. There is a contradiction in terms of the date of commencement of employment, the date of termination as well as manner/quantum of wages received by the workman. However, since the management failed to lead any cogent evidence in this regard, the version of the workman was accepted as uncontroverted; the only material difference being, that the workman admitted to be terminated w.e.f. 15.03.2015 instead of 28.02.2015, during his cross-examination, which is also backed by his initial Complaint, exhibited as Ex. WW1/1 before the Labour Court.

7. The petitioner/management has challenged the impugned award primarily on two grounds, *firstly*, that the workman indulged in dishonest conduct during the course of his employment and was given warnings by the management, however, he voluntarily left his work and later, tendered an Apology Letter as well. *Secondly*, that the right of the management to lead evidence was wrongly closed, due to which, the management could not controvert the workman's claim.

8. Insofar as the management's allegations of dishonestly and short supply of fuel by the workman is concerned, it is pertinent to note that the only document in this context is an Apology Letter relied on by the management which was not exhibited but merely marked as Mark A. The



management confronted the workman with the same, however, he denied his signatures on it during the cross-examination. At that juncture, it was the burden of the management to prove his signatures on the said Apology Letter by leading cogent and affirmative evidence, however, it failed to do so. Even if the Apology Letter was to be considered, a bare perusal of the same would show that at best, the same was an admission of a mistake in the supply of fuel to the customer, to which the workman gave an adequate factual background, explaining the circumstances, and does not, in any way, amount to an admission of dishonesty or misconduct in the course of his employment. The said letter records that on the fateful day, the other workman had gone out to eat, due to which, the respondent was left alone to work while three scooter riders were waiting for fuel. Mistakenly and under pressure, instead of providing a 60 ml 2T mix oil pouch, a 40 ml pouch was supplied to the customer by the respondent/workman. Moreover, while the impugned award notes that the Apology Letter marked before the Labour Court to be dated 15.11.2013, the letter relied upon before this Court is dated 12.12.2014. Thus, in light of denial of signature by workman and in the absence of any evidence led before the Labour Court by the management proving the authenticity of the said letters, the same cannot be looked into by this Court.

Even otherwise, while taking note of the workman's cross-examination, the Labour Court duly considered the workman's admission as to indulging in short supply of fuel, statedly on the instructions of the management and accordingly, the quantum of back wages awarded was reduced to 50%, alongwith other factors being considered. In the considered opinion of this Court, this issue has been adequately dealt with by the



Labour Court, keeping in mind all the facts and circumstances, and warrants no further inquiry or interference.

9. As regards the petitioner/management's contention of not being given an opportunity to lead evidence as the right stood closed on 09.11.2022, the Court is inclined to concur with the Labour court as notably, the issues were framed on 08.12.2016, after which, the workman deposed as a witness and led his evidence. His cross-examination is dated 30.03.2017, after which, the management was given an opportunity to lead evidence. Pertinently, even after five years, neither any witnesses were examined on behalf of the management nor any evidence led to rebut the contentions of the workman. In this factual backdrop, it is hard to accept the management's contention that adequate opportunity for leading evidence was not provided. In fact, the impugned award specifically notes that '*numerous opportunities*' were provided to prove its stand against the workman, however, to no avail. Thus, it appears that in the garb of challenging the impugned award, the present writ petition has been filed by the petitioner to belatedly seek grant of right to lead evidence.

10. In light of the above facts and circumstances, I find no grounds to interfere with the impugned award. Accordingly, the present petition is dismissed alongwith pending applications.

MANOJ KUMAR OHRI
(JUDGE)

JULY 7, 2025/rd