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

% Date of Decision: 11.03.2026

\+ **W.P.(C) 776/2019**

R.K. SOOD ART FRAMERS .....Petitioner

Through: Mr.Saurabh Jain, Advocate

versus

SATISH BHALLA & ORS .....Respondents

Through: Mr.M.P. Bhargava, Advocate for respondent Nos.1 and 2
Mr. Tushar Sannu alongwith Mr. Fajallu Rehman, Advocates for GNCTD
Mr.L.R. Khatana, Advocate (Amicus Curiae).

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present appeal has been preferred by the petitioner i.e., Management, seeking setting aside of the impugned order dated 14.09.2018 passed by the learned Labour Commissioner(South), Labour Department, Govt. of NCT of Delhi, under the Delhi Shops & Establishment Act, 1954 [hereafter referred to as 'DSE Act'].

2. Briefly stated, the claimants had filed a claim application under Section 21(3) of the DSE Act, wherein it was claimed that they were working with the Management, who were not providing them legal facilities under the labour laws. On such demand being made, their services were terminated after withholding their earned wages. It was further claimed that the Management did not pay their wages for the period from 01.07.2011 to

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13.01.2012 and their services were terminated with effect from 14.01.2012.

3. It is further averred that the claimant (*Satish Bhalla*) was working as field worker and his last drawn wages were Rs.9,500/- per month. The unpaid salaries for six months and thirteen days amounted to Rs.63,321/-. The Management had paid sum of Rs.11,121/- as advance amount and the balance amount of Rs.52,000/- was yet to be received from the Management.

4. The second claimant i.e., *Ram Chander*, claimed that he was working as a Salesman and his last drawn wages were Rs.7,300/- per month. The Management had not paid his earned wages from 01.07.2011 to 13.01.2012 i.e., for six months and thirteen days, amounting to Rs.46,959/-. He had also received an advance amount of Rs.7,959/-, and after deducting the said amount, d the balance amount of Rs.39,000/- was yet to be received from the Management.

5. The Management was initially proceeded *ex parte*, however, the said order was later set aside and the Management was permitted to file its reply, wherein they denied the employer-employee relationship. Thereafter, the Management was again proceeded *ex parte* and a final order was passed in favour of the claimants. Subsequently, on an application being filed by the Management, the said order was set aside and the Management was allowed to contest the matter. The claimants were thereafter cross-examined by the AR of the Management, however, despite being granted several opportunities, the Management failed to lead any evidence, whereupon its opportunity to do so was closed and the matter was finally listed for written arguments.

6. On evidence being led, the learned Authority, *vide* the impugned

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order, allowed both the claims.

7. While assailing the impugned order, learned counsel for the petitioner/Management contended that the learned Authority erred in concluding an employee-employer relationship existed between the parties. He submits that the claimants had also raised an industrial dispute with regard to the termination of their services, where *vide* the impugned award, the learned Labour Court dismissed the claim application *vide* order dated 15.09.2018 by observing that the claimants had failed to prove the employee-employer relationship. He further submits that the claimants have failed to produce any evidence in this regard. It is next contended that the learned Authority was only empowered to consider the issue of earned wages and not to go into the issue of employee-employer relationship.

8. The above contentions are repelled by the learned counsel appearing for the respondents/claimants as well as by Mr *Tushar Sannu*, appearing for the Authority.

9. Mr *L R Khatana*, learned *amicus curiae*, has also assisted the Court by submitting that there is no conflict between the DSE Act and the Industrial Disputes Act, 1947(hereinafter referred as 'ID Act') and that if the workmen/claimants are covered by the DSE Act, they may also seek relief under the said Act but this cannot debar them from seeking relief under the ID Act, if they are entitled to. In this regard, he has referred to the decisions in 'Co-operative Store, Ltd. v. K.S. Khurana'[1] and 'Delhi Consumers Coop. Wholesale Stores Ltd. v. Secretary, Labour'[2].

10. The petitioner's contention that the Authority under the DSE Act, on a

[1] 1988 SCC OnLine Del 223
[2] 1982 SCC OnLine Del 219

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claim being filed, is not empowered to go into the issue of employee-employer relationship, is frivolous and liable to be rejected. Indeed, when a claim is filed seeking payment of unpaid earned wages and the employer raises a dispute of employee-employer relationship, the adjudication of the said issue becomes incidental to decide the issue of unpaid earned wages. It has been pointed out that the challenge to the termination, the Labour Court has returned its finding that the claimants have failed to establish the existence of an employee-employer relationship. On the other hand, in the impugned order, the learned Authority has considered the documents filed by the claimants and answered the issue in favour of the claimants. In this regard, it is pertinent to note that in the claim application, the claimants have stated that they were engaged with the respondent and were being sent for the work allotted by the Management. In support of the same, they placed on record various documents such as gate passes issued for entry in the hotel 'The Ashok'. The said gate passes bear the names of the claimants as well as references to the Management. Besides the gate passes, the claimants have also placed photocopies of Delhi Traffic Police *challan*, gate pass(material), demand notice and the Inspector's report. The learned Authority, in the impugned order, also noted from the cross-examination that it had come on record that the Management had not issued any appointment letter/wages slip to the claimants. On consideration of the entire evidence, learned Authority allowed the claim application along with further compensation of Rs.2,000/-. In the said backdrop, the learned Authority was not bound by the opinion of the labour court which in any case, was rendered after the impugned award.

11. Before proceeding further, it is apposite to note that the scope of a

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writ petition under Article 226/227 of the Constitution of India is limited to the extent of the impugned order being perverse, without jurisdiction or without following the principles of natural justice. In this regard, reference can be made to '*Syed Yakoob v. K.S. Radhakrishnan*'[3], wherein the Supreme Court held as under:-

> *"7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or properly, as for instance, it decides a question without giving an opportunity, be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said*

[3] 1963 SCC OnLine SC 24

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finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised."

12. It is well settled that the High Court does not act as an appellate forum over findings of fact recorded by the Tribunal. In this regard, reference may be made to '*International Airport Authority of India v. International Air Cargo Workers Union*'[4]. Similarly, a Coordinate Bench of this Court in '*Ritz Theatre Private Limited v. Ramesh Chandra*'[5], examined the scope of interference under Article 226 of the Constitution of India, has observed that the writ jurisdiction of the High Court is primarily supervisory in nature and is exercised to correct jurisdictional errors committed by subordinate courts or tribunals.

13. Coming back to the present case, insofar as the finding of fact recorded by the learned Authority regarding the existence of an employee-employer relationship is concerned, this Court is conscious of the fact that there is no mechanism of appeal provided under the DSE Act against the decision of the Authority. In such circumstances and considering and the limited scope of the writ petition, this Court finds no ground to interfere with the finding rendered by the learned Authority. The same is upheld.

14. The writ petition is dismissed.

MANOJ KUMAR OHRI
(JUDGE)

MARCH 11, 2026/*pmc*

[4] (2009) 13 SCC 374
[5] 2024 SCC OnLine Del 3633

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