



2026:DHC:8620



\$~1

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% Date of Decision: 22.09.2026# **CNR No. DLHC015036912018**+ **W.P.(C) 13459/2018**

SUNIL KUMAR & ORS Petitioners
Through: Mr. R.S. Mishra, Mr. Anand
Mishra, Advocates

versus

THE STATE (GOVT OF NCT OF DELHI) & ORS
.....Respondents
Through: None

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present writ petition has been filed under Article 226 of the Constitution of *India* assailing the award dated 29.09.2018 passed by the learned Presiding Officer, Labour Court-XIX, *Dwarka* Courts, in LIR No. 885/16, whereby the reference was answered in favour of *M/s. S.N.E. India Pvt. Ltd.* (hereinafter referred to as the “management”) and the statement of claim filed by the 19 employees was dismissed.
2. The concerned dispute was referred to the Labour Court in terms of the following reference:

“Whether services of Sh. Sunil Kumar S/o Sh. Seva Ram and 18 Ors. whose details are given at annexure “A” have been illegally/and or



2026:DHC:8620



unjustifiably terminated by the Management, and if yes, to what relief are they entitled?”

3. At the outset, it is apposite to note that while the underlying industrial dispute originally concerned 19 employees, one of them, namely *Sh. Ganga Sagar*, passed away during pendency of proceedings, and *vide* order dated 25.07.2018 his wife *Smt. Manju* was substituted as his legal representative.

Further, the present writ petition has been preferred in respect of only 14 such employees (with *Smt. Manju* representing deceased workman *Sh. Ganga Sagar*), who are hereinafter collectively referred to as the “workmen”.

4. For convenience, the particulars of the 14 workmen *qua* whom the present writ petition has been preferred are detailed below:-

S. No.	Name of Worker	Father's Name	Designation	Salary (Rs.)	Date of Appointment
1.	<i>Sunil Kumar</i>	<i>Sewa Ram</i>	Production Man	7,826/-	01.09.1992
2.	<i>Ganga Sagar</i>	<i>Radhey Lal</i>	Helper	6,422/-	01.10.1986
3.	<i>Babu Lal</i>	<i>Vishram</i>	Soldar Man	7,826/-	18.10.1983
4.	<i>Madan Lal</i>	<i>Babu Lal</i>	Soldar Man	7,826/-	03.08.1989
5.	<i>Sunil Chand</i>	<i>Tota Ram</i>	Testing Man	7,826/-	11.05.1992
6.	<i>Om Prakash</i>	<i>Dal Chand</i>	Sweeper	6,422/-	01.04.2004
7.	<i>Gopal Ji</i>	<i>Chunni Bhagat</i>	Machine Man	7,826/-	01.06.1988
8.	<i>Gobind Singh</i>	<i>Sur Singh</i>	Helper	6,422/-	11.05.1992
9.	<i>Sarvan Kumar</i>	<i>Ram Niwas</i>	HSS	7,826/-	02.06.1985



2026:DHC:8620



10.	<i>Susheel Kumar Mishra</i>	<i>Jyoti Narayan Mishra</i>	Field Man	7,826/-	21.04.1996
11.	<i>Naveen Chand Joshi</i>	<i>Moti Ram Joshi</i>	Helper	6,422/-	01.03.1992
12.	<i>Pan Singh</i>	<i>Mohan Singh</i>	Soldar Man	7,826/-	03.08.1988
13.	<i>Sukhdev</i>	<i>Moda Manjhi</i>	Testing Man	7,826/-	02.02.1992
14.	<i>Vijay Pal Yadav</i>	<i>Radhey Lal Yadav</i>	Machine Man	7,826/-	01.07.1986

5. Briefly stated, the workmen claimed before the Labour Court that they had been working with the management at its premises situated at *C-177, Mayapuri Industrial Area, Phase-II, New Delhi*, on various posts, with their last-drawn wages being either Rs.6,422/- per month or Rs.7,826/- per month. Their respective initial appointments statedly fall between the years 1983 and 2004. They asserted that despite rendering continuous service, they were deprived of statutory benefits, including appointment letters, weekly and annual leaves, identity cards, conveyance allowance, overtime allowance, house rent allowance, and bonus etc. When the workmen raised a dispute about the same, an order was passed against the management by the competent Authority under the Minimum Wages Act, 1948. The management became annoyed by this and stopped paying the workmen their wages from 01.05.2011 onwards, before removing them from service on 03.08.2011. Following conciliation proceedings, the management took the workmen back on duty on 30.08.2011. However, when the workmen demanded their unpaid wages, the management again terminated them w.e.f. 23.11.2011 without issuing



2026:DHC:8620



any notice, chargesheet, holding an enquiry, or paying compensation under Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the “ID Act”). The workmen served a demand notice dated 23.11.2011 upon the management through registered speed post, but the management failed to respond to the same or reinstate the workmen, eventually leading to the reference concerned.

6. The management contested the claim by filing its written statement, raising a preliminary objection that it had never terminated the services of the workmen, but that the workmen had voluntarily abandoned their jobs w.e.f. 01.06.2011. Subsequently, the management moved an application to amend its written statement, which was allowed on 06.06.2014, whereby it took an additional plea that its manufacturing activities at its *Mayapuri* premises were permanently closed w.e.f. 01.12.2011 because the landlord had got the tenanted premises vacated.

7. Based on the pleadings of the parties, the Labour Court framed the following issues on 14.03.2013:

- “i. Whether the workman himself abandoned the job w.e.f. 01.06.2011? OPM*
- ii. Whether the services of the workman were illegally and/unjustifiably terminated by the management? OPW*
- iii. Relief.”*

Subsequently, on 25.07.2014, an additional issue was framed:

- “1A. Whether the management was permanently closed w.e.f. 01.12.2011? OPM”*

8. All the workmen other than *Sh. Ganga Sagar*, who passed away during the pendency of the proceedings and is represented by his wife



2026:DHC:8620



before this Court, tendered evidence in support of their case, and most of them were cross-examined; whereas the management, on whom the burden of proving issue no. 1 *qua* abandonment and issue no. 1A *qua* permanent closure rested, did not lead any evidence at all.

9. The Labour Court answered issue nos. 1 and 2 in favour of the management and dismissed the workmen's statement of claim. The Labour Court held that the workmen had admitted that no written letter of termination had been issued by the management, and that they had not applied for alternative employment after 2011. The Labour Court further noted that some of the workmen had admitted having been called by the management to resume their duties, and held that these circumstances indicated that the management had no *mala fide* intention to terminate their services and that the workmen had, instead, voluntarily abandoned their employment.

10. Before this Court, learned counsel appearing for the workmen, while assailing the impugned award, contends that the findings of the Labour Court on the issues of abandonment and illegal termination are perverse and cannot be sustained. It is contended that the management led no evidence to prove that the workmen abandoned their employment, and the said stand also stands contradicted by the documents placed on record by the workmen. It is further submitted that the management neither issued any call-back notice nor conducted any domestic enquiry *qua* the alleged unauthorized absence.

Learned counsel further states, on instructions, that all the workmen concerned have since crossed the age of superannuation, owing to which the relief of reinstatement is no longer viable.



2026:DHC:8620



Accordingly, it is prayed that the impugned award be set aside and lump-sum compensation be awarded to the workmen in lieu of reinstatement.

11. The respondents were served in the present petition and even appeared on some occasions, however chose neither to file any reply nor appeared thereafter. Accordingly, this Court has heard the submissions advanced on behalf of the workmen and carefully examined the record.

12. Before proceeding any further, this Court takes note of the limited scope of writ jurisdiction in exercise of powers conferred under Article 226 of the Constitution of *India*. It is well settled that the challenge is not in the nature of an appeal, but to see if the order has been passed without jurisdiction, is perverse, or does not follow the principles of natural justice (Ref: Syed Yakoob Vs. K.S. Radhakrishnan¹). The said principle was reiterated by the Supreme Court in International Airport Authority of India Vs. International Air Cargo Workers Union². This Court has also considered the scope of writ jurisdiction in Ritz Theatre Private Limited Vs. Ramesh Chandra³.

13. In the present case, the workmen proved their employment by placing on record their ESIC cards, Leave Books, representations to the Labour Department, and the demand notice dated 23.11.2011 along with postal receipts. Individual workmen also placed on record their annual Provident Fund statements; a service certificate dated 04.01.2009 issued on the letterhead of the management certifying that

¹ 1963 SCC OnLine SC 24

² (2009) 13 SCC 374

³ 2024 SCC OnLine Del 3633



2026:DHC:8620



workman/Sh. *Sunil Kumar* (WW-1) had been working since July 1992; and a letter dated 23.01.2011 addressed by the management to the EPF Commissioner confirming that workman/Sh. *Sunil Chand* (WW-14) had been in its employment since May 1992. The record further reveals a transfer document (Mark P-1), indicating that previously the concerned establishment had been operating under the name *M/s. Dolphin Auto Electric*, and *vide* the said document, the management took over and absorbed the workmen into *M/s S.N.E. India Pvt. Ltd.* w.e.f. 01.04.2008, expressly maintaining their continuity of service, seniority, and statutory benefits from their initial dates of appointment in the 1980-90s.

14. Furthermore, the attendance cards produced by the workmen established that they had performed duty and marked attendance from May 2011 continuously up to 22.11.2011. In his cross-examination, workman/Sh. *Sunil Kumar* (WW-1) specifically deposed that the management closed its factory at *Mayapuri* on 01.12.2011, shifted to *Hari Nagar*, and thereafter commenced business at *Dabri Village*. This contemporaneous documentary record of attendance completely belies the stand taken by the management in its written statement that the workmen had stopped reporting for work and abandoned their employment w.e.f. 01.06.2011.

15. On the other hand, the management led no evidence whatsoever to prove that the workmen had left service of their own accord, despite being granted several opportunities to do so before its evidence was ultimately closed by the Labour Court on 06.04.2018. No call-back notice, letter, or communication was produced to show that the



2026:DHC:8620



workmen were ever asked to resume their duties, nor was any action initiated against them for unauthorized absence.

16. In these circumstances, this Court is of the considered opinion that the findings arrived at by the Labour Court are entirely fallacious. The Labour Court, having correctly placed the burden of proving abandonment on the management under issue no. 1, fell into error by holding that abandonment was established merely because the workmen did not possess a written termination letter and had not applied for alternative employment after their alleged termination. The absence of a letter of termination could not have been used to infer voluntary abandonment, particularly in light of the attendance records and the immediate demand notice issued by the workmen. The findings returned on issue nos. 1 and 2 are contrary to the evidence on record and cannot be sustained. The termination of the services of the workmen without compliance with Section 25F of the ID Act is accordingly held to be illegal and unjustified.

17. Turning to the question of relief, it is settled law that reinstatement with back wages is not automatic upon a finding that the termination was in contravention of Section 25F of the ID Act, and in appropriate cases, compensation may be granted instead. A gainful reference may be made to Jagbir Singh Vs. Haryana State Agriculture Mktg. Board⁴, wherein the Supreme Court observed as under:

“7. It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of

⁴ (2009) 15 SCC 327



2026:DHC:8620



cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.”

18. Similarly, the Supreme Court in Bharat Sanchar Nigam Limited Vs. Bhurumal⁵ observed as under:

“33. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or mala fide and/or by way of victimisation, unfair labour practice, etc. However, when it comes to the case of termination of a daily-wage worker and where the termination is found illegal because of a procedural defect, namely, in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view that in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

34. The reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily-wage basis and even after he is reinstated, he has no right to seek regularisation [see *State of Karnataka v. Umadevi* (3) [(2006) 4 SCC 1: 2006 SCC (L&S) 753]]. Thus when he cannot claim regularisation and he has no right to continue even as a daily-wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

⁵ (2014) 7 SCC 177



2026:DHC:8620



35. We would, however, like to add a caveat here. There may be cases where termination of a daily-wage worker is found to be illegal on the ground that it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularised under some policy but the workman concerned terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.”

19. In the present case, the services of the workmen were terminated in November 2011, and nearly 15 years have passed since. The management statedly closed down its factory at the tenanted *Mayapuri* premises in December 2011. Learned counsel appearing for the workmen has stated that all the workmen have crossed the age of superannuation and, therefore, the relief of reinstatement is not viable.

20. The workmen were regular employees who had rendered continuous service with the management over extended periods of time until November 2011. Considering their length of continuous service, their last-drawn wages, the illegality of the termination, and the time that has elapsed, this Court deems it just, fair, and reasonable that workmen *Sh. Ganga Sagar* (through his wife and legal representative *Smt. Manju*), *Sh. Babu Lal*, *Sh. Madan Lal*, *Sh. Gopal Ji*, *Sh. Sarvan Kumar*, *Sh. Pan Singh*, and *Sh. Vijay Pal Yadav* be awarded a lump-sum compensation of Rs.6,00,000/- each; workmen *Sh. Sunil Kumar*, *Sh. Sunil Chand*, *Sh. Gobind Singh*, *Sh. Susheel Kumar Mishra*, *Sh. Naveen Chand Joshi*, and *Sh. Sukhdev* be awarded a lump-sum compensation of Rs.5,00,000/- each; and workman *Sh.*



2026:DHC:8620



Om Prakash be awarded a lump-sum compensation of Rs.4,00,000/-.

21. Accordingly, the impugned award is set aside and the management is directed to pay the aforesaid amounts within a period of 8 weeks from today, failing which the amounts shall carry simple interest @ 9% per annum from the date of this judgment till realization.

22. The present writ petition is allowed in the above terms.

(MANOJ KUMAR OHRI)
JUDGE

SEPTEMBER 22, 2026

nb

(corrected and released on 01.10.2026)