



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

% Reserved on : 17.03.2026
Pronounced on : 25.05.2026
Uploaded on : 25.05.2026

+ **W.P.(C) 7218/2018**

ARUNA DALMIA AND ANRPetitioners
Through: Mr. Ujjwal K. Priyadarshi,
Advocate.

versus

GOVT. OF NCT OF DELHI AND ANRRespondents
Through: Mr. Ravindra S. Garia, Mr. Shashank
Singh and Mr. Upendra Singh Raja,
Advocates for respondent no.2
(M:9899506150)

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present petition has been filed under Articles 226/227 of the Constitution of India by the petitioners, assailing the award dated 19.03.2018 passed by the learned Presiding Officer, Labour Court-XIX, Dwarka Courts, New Delhi, in LIR No. 7325/2016, whereby the respondent no.2/workman has been held to be entitled to reinstatement along with full back wages.

2. Briefly stated, the workman preferred a claim application, claiming that he had been employed as a driver with the petitioners since June, 2003 and that his last drawn wages were Rs.16,000/- per month. He claimed that despite rendering continuous service, he was denied statutory benefits and



his services were illegally terminated on 23.07.2015 without notice, chargesheet, enquiry, or compliance with Section 25F of the Industrial Disputes Act(hereinafter referred to as the 'ID Act'). The workman further claimed that he had issued a demand notice dated 17.08.2015 seeking reinstatement with continuity of service and back wages, but petitioner no.2/management failed to respond. Thereafter, conciliation proceedings were initiated, however, as no settlement could be arrived at, the dispute was referred to the Labour Court.

3. Learned counsel for the petitioners submits that the impugned award is wholly erroneous and without jurisdiction, as the Labour Court failed to appreciate that no employer-employee relationship existed. It is contended that the workman had voluntarily left the services on 20.07.2015 after receiving full and final settlement of his dues.

4. *Per contra*, learned counsel for the workman submits that the impugned award is well-reasoned. It is contended that the respondent had been working with the petitioners as a driver and his services were terminated illegally and arbitrarily. It is further submitted that the petitioner-management failed to produce any evidence before the Labour Court to substantiate its defence that the respondent had voluntarily left the job or that there was no employer-employee relationship.

5. I have heard the learned counsel for the parties and perused the record.

6. It is noted that the workman established the existence of an employer-employee relationship by producing on record his identity card and salary certificate issued by the management. These documents *prima facie* support the workman's claim that he was employed under the



management. During his cross-examination, the workman denied the suggestions put by the management that he had voluntarily left the job, that his services had not been terminated by the management, that he had received full and final dues towards salary, or that the identity card had merely been issued to facilitate parking of the vehicle during exhibitions. Accordingly, the workman had discharged the initial burden cast upon him to establish the relationship of employment.

7. Thereafter, the burden shifted upon the management to rebut the evidence produced by the workman. However, the management failed to produce any evidence to support its plea that the workman was merely the personal driver of petitioner no.1, who was the Chairperson of petitioner no.2/management, and not an employee of petitioner no.2/management. Significantly, petitioner no.1 herself did not step into the witness box to support the defence taken. The Labour Court, therefore, drew an adverse inference against the management and held that its defence remained unproved.

8. The legal position regarding determination of an employer-employee relationship is well settled. As reiterated by this Court in Indraprastha Gas Ltd. v. Ambrish Kumar¹, the initial burden to establish such relationship lies upon the workman who asserts it. Where a claimant alleges that he is an employee of a particular establishment and the management denies the assertion, the obligation to produce cogent, credible, and convincing evidence to substantiate the claim rests squarely upon the claimant. It is only upon discharge of this initial burden that the onus shifts to the management to rebut the evidence and disprove the claim.



9. Notably, the Labour Court rejected the management's plea that the workman had voluntarily abandoned service. In fact, such a defence itself presupposes the existence of an employer-employee relationship between the parties. If there was no employer-employee relationship, there was no question of the workman abandoning service. Further, the management did not produce any notice, letter, or attendance record showing that the workman was asked to return to duty or explain his absence.

10. The management also failed to establish compliance with the mandatory requirements of Section 25F of the Industrial Disputes Act, inasmuch as no evidence was produced regarding issuance of notice, payment of notice pay, or retrenchment compensation prior to termination of service. Consequently, the termination was held to be illegal and unjustified.

11 Further, the plea of full and final settlement also remained unsubstantiated, as the management merely relied upon a photocopy of the receipt, without producing the original document or examining any witness. The workman, in his rejoinder, specifically denied the contents and authenticity of the receipt and stated the same to be false, fabricated, and have been produced to shift liability from the management.

12. Before proceeding 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 appeal, but to seek if the order is passed without jurisdiction, is perverse or did not follow principle of natural justice [Ref: Syed Yakoob v. K.S. Radhakrishnan²]. The same principle was reiterated by the Supreme Court

¹ 2025 SCC OnLine Del 8896

² 1963 SCC OnLine SC 24



in International Airport Authority of India v. International Air Cargo Workers Union³. This Court has also considered the scope of its writ jurisdiction in 'Ritz Theatre Private Limited v. Ramesh Chandra'⁴.

13. Upon a cumulative consideration of the aforesaid, this Court does not find any apparent illegality or perversity in the findings returned by the Tribunal so as to warrant interference in exercise of writ jurisdiction. The findings returned by the Labour Court are based on due appreciation of the oral and documentary evidence on record and is, therefore, not liable to be interfered with.

14. Insofar as the relief granted is concerned, this Court finds no infirmity in the direction that the workman is entitled to reinstatement along with full back wages for the entire period.

15. Therefore, the impugned award is upheld.

16. Accordingly, the present writ petition is dismissed.

(MANOJ KUMAR OHRI)
JUDGE

MAY 25, 2026

sn

³ (2009) 13 SCC 374

⁴ 2024 SCC OnLine Del 3633