



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

% Reserved on : 12.05.2026
Pronounced on : 26.05.2026
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+ **W.P.(C) 10119/2023**

M/S SWAN AGENCIES

....Petitioner

Through: Mr. Om Prakash Gupta, Advocate.
versus

SH.MOHAN

....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present writ petition has been filed by the management/petitioner challenging the Award dated 23.03.2023 passed by the learned Labour Court in LIR No. 1947/2017, whereby the claim application filed by the workman/respondent was allowed.

2. Briefly stated, the workman/respondent raised an industrial dispute before the Labour Commissioner, GNCTD. However, the conciliation proceedings remained unsuccessful and the dispute was referred to the Labour Court with the following terms of reference:-

“Whether employer-employee relationship ever existed between workman Shri Mohan S/o Shri Banwari and management and if so, whether his services have been terminated illegally and/or unjustifiably by the management; and if so, to what relief is he entitled and what directions are necessary in this respect?”

3. The workman filed his statement of claim stating that he was employed with the management as a ‘Delivery Man’ since 01.06.2008 and that his last drawn salary was Rs. 6,500/- per month. It was further alleged



that the management was paying wages less than the minimum wages fixed by the Government and, when the same was demanded, the management developed a grudge against him. It was further alleged that on 09.04.2014, while the workman was performing his duties, one *Raj Kumar*, the Manager, abused and assaulted him, pursuant to which a DD entry was lodged against the Manager at P.S. *Kirti Nagar*. The said act allegedly infuriated the management and, when the workman reported for duty thereafter, Sh. *Sandeep Malhotra*, partner of the management, did not allow him to work and terminated his services on the same day i.e., 09.04.2014.

The workman further claimed that during the course of his employment he was not provided legal facilities such as appointment letter, minimum wages, wage slips, leave book, attendance card, ESI and PF facilities, etc. It was also stated that a demand notice dated 13.10.2016 (mentioned as 14.10.2016 in the impugned award) was sent by the workman through registered and speed post however, the management failed to respond to the same. The workman further claimed that he had worked for more than 240 days in each calendar year till the date of termination and accordingly sought reinstatement with continuity of service and full back wages.

4. The management appeared and contested the claim and denied the existence of any employer-employee relationship with the workman. The workman examined himself as WW-1 and tendered his evidence by way of affidavit (Ex. WW1/A). In the said affidavit, the workman reiterated the contents of the statement of claim and relied upon the following documents:-

(1) *Ex.WW/1 is copy of demand notice dated 13.10.2016.*



(2) *Ex.WW/2 and Ex. WW-1/3 are postal receipts in respect of dispatch of demand notice.*

5. In his cross-examination, the workman denied the suggestion that he was never employed with the management and clarified that no employment record was available with him and therefore none could be filed. In support of his claim, the workman, on 27.01.2020, had also summoned one *Mandeep*, Data Entry Operator from the Office of the *Joint Labour Commissioner, District West, Karam Pura, New Delhi*, however, the said witness was subsequently dropped. The management, on its part, did not lead any evidence.

6. While passing the impugned Award, the Labour Court took note of the fact that during the pendency of the proceedings, the workman had moved an application under Section 11 of the Industrial Disputes Act, 1947 seeking production of certain documents, which application was allowed and the management was directed to produce the biometric attendance record before the Court. The management, however, filed an affidavit stating that the records were old and could not be produced as the same were no longer available. In this backdrop, the Labour Court observed that the workman had taken all possible steps to establish the employer-employee relationship between the parties. The management, however, failed to produce any record and merely stated that the biometric attendance record, being old, was not available.

It is also pertinent to note that despite opportunity being granted, the management failed to lead any evidence to rebut the claim of the workman or to disprove the employer-employee relationship. An adverse inference



was therefore rightly drawn against the management for withholding the best evidence in its possession.

7. At this stage, this Court also takes note of the limited scope of writ jurisdiction under Article 226 of the Constitution of India. It is well settled that interference is warranted only where the impugned order is without jurisdiction, perverse, or passed in violation of the principles of natural justice [Ref: Syed Yakoob v. K.S. Radhakrishnan¹]. The said principle was reiterated by the Supreme Court in International Airport Authority of India v. International Air Cargo Workers Union². This Court has also considered the scope of writ jurisdiction in Ritz Theatre Pvt. Ltd. v. Ramesh Chandra³.

8. In the impugned Award, the Labour Court observed that the termination of the workman on 09.04.2014 was illegal and unjustifiable. However, considering the lapse of time between the date of termination and the date of the Award, the Labour Court deemed it appropriate to grant lump sum compensation of Rs.1.50 lakhs to the workman in lieu of reinstatement and back wages.

9. Finding no ground to interfere with the impugned Award, the present writ petition is dismissed. The amount deposited by the petitioner be released to the workman along with accrued interest, if any.

10. Pending stay application, i.e., CM. APPL. 39087/2023 is disposed of accordingly.

**(MANOJ KUMAR OHRI)
JUDGE**

MAY 26, 2026/ga

¹ 1963 SCC OnLine SC 24

² (2009) 13 SCC 374

³ 2024 SCC OnLine Del 3633