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

% Reserved on : 16.03.2026
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\+ **W.P.(C) 13267/2018**

RANJEET .....Petitioner
Through: Mr. Tarkeshwar Nath and Mr. Harshit Singh, Advocates with petitioner-workman in person.

versus

NARESH INDUSTRIES .....Respondent
Through: Mr. Gulshan Chawla, Ms. Kanupriya Chawla, Mr. Manish Kumar, Mr. Prashant Kumar, Mr. Aditya Singh, and Ms. Bhavya Khera, Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present writ petition, filed under Article 226 of the Constitution of *India*, is directed against the Award dated 13.07.2018 passed by the Labour Court whereby the claim application of the workman/petitioner was dismissed.

2. The facts in a nutshell are that the workman/petitioner filed a direct industrial dispute before the Labour Court seeking reinstatement with continuity of service alongwith full back wages. In the claim application, it was claimed that the workman had joined the management/respondent on 01.01.1996 as a "Guard" and was drawing a salary of Rs.3,500/- per month.

Subsequently, he was made to work as a thread cutter, over-lock alterer, and layer man; however, no extra wages were paid, and when the same were demanded, under coercion the workman was forcibly asked to put signatures on some blank papers, vouchers, and other forms. The workman protested and demanded back the said blank documents, upon which he was beaten up and made to write an apology letter, on 15.07.2005, for the allegation that he was caught red-handed while stealing a piece of cloth. On the next day, i.e., 16.07.2005, he reported to join his duties; however, he was not allowed to join his duties, threatened, and rather asked to resign. It was further claimed that his services were illegally terminated without any notice, notice pay, or retrenchment compensation. Further, no charge-sheet was ever issued or served, and no domestic inquiry was conducted.

The management appeared and filed its written statement, in which it denied that the workman was ever employed as a "Security Guard". It was claimed that the workman worked as a "Thread Cutter" and drew salary of Rs.2,898/- per month. The allegation of extra work was also denied. It was claimed that he was caught red-handed committing theft of cloth on 15.07.2005 and thereafter stopped coming to duty from 16.07.2005 without any intimation or sanction of leave. The absence being unauthorised, the management claimed it to be a case of abandonment. It was further claimed that though notices and a charge-sheet were duly issued, the workman never joined those proceedings.

In the said backdrop, the Labour Court came to the conclusion that the workman abandoned the job deliberately w.e.f. 16.07.2005 and dismissed the claim application.

3. Before this Court, learned counsel for the petitioner/workman contended that the Labour Court's decision to reject the claim is manifestly perverse as it did not appreciate the evidence in the correct perspective. The Court failed to appreciate that none of the notices statedly sent to the workman were ever delivered. The workman claimed that none of the said communications were sent to his correct address. Further, all those communications were not sent through registered post, and even for the ones that were claimed to have been sent through UPC, there were no tracking reports or proof of delivery. Learned counsel has referred to the demand letter dated 21.07.2005 to submit that the workman had shown an intention to rejoin the duties, but he was not allowed to do so.

4. On the other hand, learned counsel for the respondent/management contended that the workman had filed the claim application in the year 2005, and the factum of notices being issued and factum of inquiry proceedings being held were stated at the first instance in the written statement itself. Further, the documents relating to the domestic inquiry and disciplinary proceedings were also brought on record from time to time. Moreover, on the direction of the Inquiry Officer, even publication was carried out in a newspaper; however, the workman conspicuously failed to appear in the domestic inquiry. Further submissions were addressed on the limited scope of interference in writ jurisdiction.

5. It is well settled that the scope of a writ petition under Articles 226/227 of the Constitution of *India* is limited to the extent of the Court determining if the impugned order is perverse, without jurisdiction, or passed without following the principles of natural justice. In this regard,

reference can be made to *Syed Yakoob Vs. K.S. Radhakrishnan*[1], 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 Art. 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 in excess of it, or as a result of failure to exercise jurisdictions. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to 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 a 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 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 Art. 226 to issue a writ of certiorari can be legitimately exercised (vide Hari Vishnu Kamath v. Syed Ahmed Ishaque, Nagendra Nath Bora v. The Commissioner of Hills Division and Appeals, Assam, and Kaushalya Devi v. Bachittar Singh.*
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> *8. It is, of course, not easy to define or adequately describe what*

[1] 1963 SCC OnLine SC 24

an error of law apparent on the face of (1) [1955] 1 S.C.R. 1104. (2) [1958] S.C.R. 1240. (3) A.I.R. 1960 S.C. 1168. the record means. What can be corrected by a writ has to be an error of law; but it must be such an error of law as can be regarded as one which is apparent on the face of the record. Where it is manifest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious mis-interpretation of the relevant statutory provision, or sometimes in ignorance of it, or may be, even in disregard of it, or is expressly rounded on reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari. In all these cases, the impugned conclusion should be so plainly inconsistent with the relevant statutory provision that no difficulty is experienced by the High Court in holding that the said error of law is apparent on the face of the record. It may also be that in some cases. the impugned error of law may not be obvious or patent on the face of the record as such and the Court may need an argument to discover the said error; but there can be no doubt that what can be corrected by a writ of certiorari is an error of law and the said error must, on the whole, be of such a character as would satisfy the test that it is an error of law apparent on the face of the record. If a statutory provision is reasonably capable of two constructions and one construction has been adopted by the inferior Court or Tribunal, its conclusion may not necessarily or always be open to correction by a writ of certiorari. In our opinion, it is neither possible nor desirable to attempt either to define or to describe adequately all cases of errors which can be appropriately described as errors of law apparent on the face of the record. Whether or not an impugned error is an error of law and an error of law which is apparent on the face of the record, must always depend upon the facts and circumstances of each case and upon the nature and scope of the legal provision which is alleged to have been misconstrued or contravened."

6. It is also well settled that the High Court does not act as an appellate forum over findings of fact recorded by a Tribunal. In this regard, reference may be made to *International Airport Authority of India Vs. International Air Cargo Workers Union*[2], wherein the Supreme Court held as under:-

"*47. It is true that in exercising the writ jurisdiction, the High Court cannot sit in appeal over the findings and award of the Industrial Tribunal and therefore, cannot reappreciate evidence. The findings of fact recorded by a fact-finding authority should ordinarily be considered as final. The findings of the Tribunal should not be interfered with in writ*

[2] (2009) 13 SCC 374

jurisdiction merely on the ground that the material on which the Tribunal had acted was insufficient or not credible.

48. It is also true that as long as the findings of fact are based on some materials which are relevant, findings may not be interfered with merely because another view is also possible. But where the Tribunal records findings on no evidence or irrelevant evidence, it is certainly open to the High Court to interfere with the award of the Industrial Tribunal."

7. A gainful reference can also be made to the observations of the Coordinate Bench of this Court in *Ritz Theatre Private Limited Vs. Ramesh Chandra*[3] *qua* the scope of interference in writ jurisdiction under Article 226 of the Constitution of *India*:-

"*21. At this juncture, this Court shall briefly revisit the scope of its power under Article 226 of the Constitution of India. The jurisdiction, of the High Court in matters where Article 226 has been invoked, is limited. It is a well settled proposition of law that it is not for the High Courts to constitute itself into an Appellate Court over the decisions passed by the Tribunals/Courts/ Authorities below, since, the concerned authority is constituted under special legislations to resolve the disputes of a particular kind.*

22. A writ is issued for correcting errors of jurisdiction committed by inferior Courts or Tribunals and such errors would mean where orders are passed by inferior Courts or Tribunals without jurisdiction, or 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 improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to the principles of natural justice.

23. Tersely stated, firstly, a High Court shall exercise its writ jurisdiction sparingly and shall act in a supervisory capacity and not adjudicate upon matters as an appellate court. Secondly, the Constitutional Court shall not exercise its writ jurisdiction to interfere when prima facie; the Court can conclude that no error of law has occurred. Thirdly, judicial review involves a challenge to the legal validity of the decision. It does not allow the Court of review examine the evidence with a view to forming its own view about the substantial merits of the case. The reasoning must be cogent and convincing. Fourthly, a High Court shall intervene only in cases where there is a gross violation of the rights of the petitioner and the conclusion of the authority concerned is

[3] 2024 SCC OnLine Del 3633

> *perverse. A mere irregularity which does not substantially affect the cause of the petitioner shall not be a ground for the Court to intervene. Fifthly, if the Court observes that there has been a gross violation of the principles of natural justice.*"

8. Before proceeding further, this Court also deems it apposite to take note of the procedural history of the present case. Initially, in the claim proceedings, the management appeared and filed its written statement, to which the workman also filed his rejoinder. However, after the framing of issues, the workman stopped appearing before the Labour Court, leading to the passing of an *ex parte* Award. The same was assailed by the workman through **W.P.(C) 8464/2007**, wherein this Court, *vide* its decision dated 28.09.2010 noting the facts of the case, remanded the matter back for fresh consideration. The fresh Award passed subsequently is being assailed in the present proceedings.

9. Now, considering the limited scope of jurisdiction to be exercised by this Court, the issue that arises for consideration is whether the Labour Court erred in returning a finding as to whether the present case is one of abandonment or of termination. In *G.T. Lad & Ors. Vs. Chemical & Fibres of India Ltd.*[4], the Supreme Court examined the expression "abandonment of service" and explained as under:-

> "*5a. Re. Question No. 1: In the Act, we do not find any definition of the expression 'abandonment of service'. In the absence of any clue as to the meaning of the said expression, we have to depend on meaning assigned to it in the dictionary of English language. In the unabridged edition of the Random House Dictionary, the word 'abandon' has been explained as meaning 'to leave completely and finally; forsake utterly; to relinquish, renounce; to give up all concern in something'. According to the Dictionary of English Law by Earl Jowitt (1959 Edn.) 'abandonment' means 'relinquishment of an interest or claim'. According to Black's Law Dictionary 'abandonment' when used in relation to an office means*

[4] (1979) 1 SCC 590

'voluntary relinquishment. It must be total and under such circumstances as clearly to indicate an absolute relinquishment. The failure to perform the duties pertaining to the office must be with actual or imputed intention, on the part of the officer to abandon and relinquish the office. The intention may be inferred from the acts and conduct of the party, and is a question of fact. Temporary absence is not ordinarily sufficient to constitute an 'abandonment of office'.

6. From the connotations reproduced above it clearly follows that to constitute abandonment, there must be total or complete giving up of duties so as to indicate an intention not to resume the same. In Buckingham & Carnatic Co. v. Venkatiah it was observed by this Court that under common law an inference that an employee has abandoned or relinquished service is not easily drawn unless from the length of absence and from other surrounding circumstances an inference to that effect can be legitimately drawn and it can be assumed that the employee intended to abandon service. Abandonment or relinquishment of service is always a question of intention, and normally, such an intention cannot be attributed to an employee without adequate evidence in that behalf. Thus, whether there has been a voluntary abandonment of service or not is a question of fact which has to be determined in the light of the surrounding circumstances of each case."

10. The above extract would show that the Court has to gather abandonment from the intent of the workman. It is a question of fact which is to be determined in light of the surrounding circumstances.

11. Coming to the facts of the present case, the management has claimed that the workman was caught red-handed stealing a piece of cloth on 15.07.2005, on which day he admitted his guilt and wrote an apology letter. Two letters dated 18.07.2005 and 22.09.2005 were issued by the management asking the workman to explain his conduct. The workman, on the other hand, sent the demand notice wherein he not only expressed his desire to join duties but also demanded the return of documents that he claimed he was forced to sign by the management.

12. In the earlier round of litigation, i.e., **W.P.(C) 8464/2007**, this Court while disposing of the said petition noted that the management had filed its

written statement, to which the workman had also filed his rejoinder. During the course of hearing the present matter, learned counsel for the workman handed over a copy of the rejoinder (in *Hindi*) filed in the claim proceedings, and the same is taken on record. In the written statement, the management had informed about the status of the show cause notices and the charge-sheet issued by it, as well as the inquiry proceedings being initiated. The workman, duly represented through an A.R. before the Labour Court, also replied to the said written statement via his rejoinder. It is thus apparent that the workman's claim that he was never intimated about the initiation of inquiry proceedings or the issuance of a charge-sheet does not hold water. Furthermore, the record also reflects that on the continual denial by the workman regarding the receipt of any communication, the management had moved an appropriate application before the Labour Court seeking a direction to the workman to disclose his latest address. On the Court's direction dated 24.12.2005, the workman furnished his new address and all subsequent communications were addressed to the said new addresses. When the workman did not appear before the Inquiry Officer despite a letter informing him of the same being sent to his new address, even a publication was carried out in a newspaper. The Inquiry Report recommended dismissal, which was again intimated to the workman at his permanent address. After the matter was earlier remanded back by this Court, the workman appeared and both the parties led their respective evidence. The Labour Court, on appreciation of the facts, reached a conclusion that the workman had indeed abandoned the job. The said findings, in light of what has been noted above, cannot be said to be perverse in any manner. Although during the hearing, the workman also

tried to discredit his A.R., however it is too late in the day for the same.

13. In view of the aforesaid discussion, the present writ petition is dismissed.

14. The present writ petition is disposed of in the above terms.

MANOJ KUMAR OHRI
(JUDGE)

MARCH 28, 2025
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