



2025:DHC:620



\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Judgment reserved on: 29.01.2025
Judgment pronounced on: 03.02.2025

+

W.P.(C) 1084/2025, CM APPLs. 5347/2025 & 5348/2025

SHRI PAPPU PATHAKPetitioner
Through: Mr. Narendra Singh, Advocate.

versus

M S BANSAL BROTHERS INDUSTRIESRespondent
Through: None.

+

W.P.(C) 1085/2025, CM APPLs. 5349/2025 & 5350/2025

SHRI VINIT SHARMAPetitioner
Through: Mr. Narendra Singh, Advocate.

versus

M S BANSAL BROTHERS INDUSTRIESRespondent
Through: None.

+

W.P.(C) 1091/2025, CM APPLs. 5374/2025 & 5375/2025

SHRI SANJAY SHARMAPetitioner
Through: Mr. Narendra Singh, Advocate.

versus

M S BANSAL BROTHERS INDUSTRIESRespondent
Through: None.

CORAM:

JUSTICE GIRISH KATHPALIA



COMMON JUDGMENT

GIRISH KATHPALIA, J.:

1. These three writ petitions under Articles 226&227 of the Constitution of India deal with similar factual and legal matrix, so the same are taken up together for disposal. The petitioners have challenged Labour Court Awards dated 09.02.2024, whereby the References in respect of their alleged termination of services were answered against them and consequently their Statements of Claims were dismissed. Despite advance intimation, none appeared from respondent and after hearing learned counsel for petitioners, who took me through records, I found no reason to issue notice.

2. Briefly stated, circumstances leading to the present petitions are as follows.

2.1 By way of orders dated 19.02.2018, the Government of NCT of Delhi sent to the Labour Court three separate References in the names of the petitioners to the effect as to whether their services had been terminated illegally and/or unjustifiably by the present respondent management, and if so, to what relief they are entitled.

2.2 The factual matrix set up by the petitioners in their respective statements of claim was as follows. The petitioners Pappu Pathak and Vinit Sharma were working as *karigars* with the respondent management for past



2025:DHC:620



13 years while petitioner Sanjay Sharma was working as *karigar* with the respondent management for past 09 years. The last monthly wages drawn by the petitioners Pappu Pathak, Vinit Sharma and Sanjay Sharma were Rs. 11,700/-, Rs. 10,100/- & Rs. 9,200/- respectively. Despite their hard work and sincerity, the petitioners were not granted legal facilities like appointment letter, earned leave, casual leave, leave pay, leave book and salary slip etc. On false assurances, the respondent management took signatures of all these petitioners on blank papers and when they insisted for being provided facilities to which they were entitled, the respondent management illegally terminated their services on 30.04.2017, without paying their wages for the months of March & April 2017. Despite their complaints to the labour authorities and their demand notices dated 01.06.2017, the respondent management did not reinstate their services and did not pay balance wages.

2.3 The respondent management filed written statements in each of those cases before the Labour Court, denying the contents of the statements of claims. In the written statements, the respondent management pleaded that Pappu Pathak as semi skilled worker, Vinit Sharma as helper and Sanjay Sharma also as helper joined service of the management respectively on 12.11.2016, 09.11.2016 and 11.11.2016 by way of appointment letters issued to each of them. The respondent management further pleaded that on 30.04.2017, all these workmen left their job at their own will and accord, without completing even 240 days of service. The respondent management



denied having obtained signatures of any of the petitioners on blank papers and also denied that the workmen raised any demand or grievance.

2.4 The petitioners workmen filed rejoinders, denying the contents of the written statements and reaffirmed their claim contents.

2.5 On the basis of rival pleadings, the Labour Court originally framed issues as to whether the workmen left their job at their own will and accord or their services were terminated illegally/unjustifiably by the respondent management. Subsequently, the learned Labour Court framed an additional issue as to whether the workmen had not completed 240 days of service in the preceding 12 months of their alleged termination.

2.6 During trial, each of the petitioners appeared as their solitary witness while on behalf of the respondent management, their Supervisor appeared as its solitary witness. After hearing both sides, the Labour Court passed the awards, which are impugned in the present proceedings.

2.7 In the impugned awards, the Labour Court after analysis of rival pleadings and evidence arrived at the findings that the applications of the petitioners workmen seeking appointment and the appointment letters issued to them, coupled with the attendance & wage records adduced in evidence by the respondent management clearly established that the petitioners workmen had joined the service of the respondent management sometime in



the month of November 2016 itself and that there is no evidence to show that any of the workmen worked with the management for 240 days in the 12 months preceding the date of their alleged termination. The learned Labour Court also placed reliance on a judicial precedent flowing from the Hon'ble Supreme Court to the effect that it is for the workman to prove that he had worked for 240 days in a year with the management. Having arrived at the findings that the petitioners workmen had not worked with the respondent management even for a period of 240 days, the learned Labour Court decided the additional issue in favor of the respondent management and took a view that on account of the said findings, there was no need to delve into the remaining issues. With these findings, the learned Labour Court dismissed the statements of claims of the petitioners workmen and answered the References against them.

3. Thence, the core issue involved in these petitions is as to whether the learned Labour Court rightly arrived at the findings that none of these petitioners had worked for even 240 days in the year preceding the date of the alleged termination of their services. In this regard, there is no dispute to the legal proposition that in view of the above mentioned rival pleadings, it was for the petitioners workmen to establish that they had worked with the respondent management for not less than 240 days in the year preceding the date of their alleged termination.



4. During arguments, learned counsel for the petitioners took me through the above record and contended that services of the petitioners workmen were illegally terminated by the respondent management, so the impugned awards are not sustainable in the eyes of law. However, learned counsel for the petitioners further contended that it is the Union of the workmen which did not properly pursue the case and that led to the References being answered against the petitioners workmen. No other argument was advanced on behalf of the petitioners.

5. In the above backdrop, I have perused the entire record of the Labour Court, which was annexed with the petition by the petitioners themselves. As mentioned above, the specific pleadings of the petitioners workmen are that they worked for almost a decade with the respondent management and when they pressed for their entitlements, the respondent management illegally terminated their services without even paying them their outstanding wages. In contrast, the respondent management specifically pleaded in their written statement that none of the petitioners workmen had worked for even 240 days in the 12 months immediately preceding their alleged termination from service and further pleaded that the petitioners workmen voluntarily left their services on 01.05.2017.

6. The petitioners in their chief examination affidavits Ex.WW1/A reiterated their claim contents and placed on record their documents Ex.WW1/1-25. In cross-examination, the petitioners workmen admitted



having not filed any document on record to show that they were working with the respondent management as *karigar* for the last 13 years. Further, on being shown the appointment letters Ex.WW1/M, each of the petitioners workmen admitted his signatures on the same. In cross examination, petitioners also admitted having not made any representation to the respondent management and having not lodged any complaint with any authority that they were being denied legal facilities by the respondent management.

7. On the other hand, the Supervisor of the respondent management stepped into the witness box as MW1 and deposed on oath the abovementioned contents of their written statement and placed on record the relevant documents as Ex.MW1/1-3 and also placed on record the appointment letters Ex. WW1/M of each of the petitioners workmen. MW1 was cross-examined on behalf of petitioners workmen but his testimony remained unshaken.

8. Evidently, in order to prove their case the petitioners workmen have adduced only their oral testimony; and the documents adduced in evidence on their behalf do not pertain to the additional issue as to whether any of them had worked for 240 days or more in the 12 months immediately preceding the date of their alleged termination. On the other hand, the respondent management has proved the appointment letters as well as their employment record of the concerned period on this aspect.



9. As mentioned above, petitioners have admitted their signatures on appointment letters Ex. WW1/M. The allegation of the petitioners that they were made to sign blank papers by the respondent management fails to inspire confidence in the absence of any complaint in that regard lodged by them before any authority. On the other hand, the respondent management has adduced on record not just the said appointment letters but also their employment records, none of which reflect attendance of any of these petitioners workmen prior to November 2016.

10. Significantly, the document Ex.WW1/1 is the complaint dated 03.05.2017 lodged by the Engineering Workers Lal Jhanda Union with the labour authorities, alleging the illegal termination of the petitioners workmen. This is the first complaint after 01.05.2017, the date of the alleged termination of services. In the said complaint Ex.WW1/1 dated 03.05.2017, there is not even a whisper that the petitioners workmen were made to sign blank papers. The story of the petitioners workmen alleging that the respondent management obtained their signatures on blank papers appears to be only an afterthought, so cannot be believed. Even during their cross examination as WW1, when the petitioners workmen were confronted with their appointment letters Ex.WW1/M, they admitted their signatures on the same but did not allege that the same were fabricated on blank papers got signed from them by the respondent management.



11. Further, in their cross-examination, the petitioners workmen stated that their wages used to be paid by the respondent management after obtaining their thumb impressions on the vouchers and the payment used to be according to their respective attendance recorded on the attendance register of the management every month. Even those attendance registers proved during evidence by the management witness as Ex.MW1/2 (*colly*), and the wage sheets proved as Ex.MW1/3 (*colly*) for the period from April 2015 to March 2018 show that the petitioners workmen worked during the period from November 2016 to April 2017, which also belies the claim of the petitioners workmen that they worked for more than 240 days in a year with the management.

12. As mentioned above, even during arguments before this Court, learned counsel for petitioners workmen could not point out even a shred of evidence to show that any of the petitioners worked for more than 240 days in the 12 months immediately preceding the date of alleged termination of their services.

13. I am unable to find any infirmity in the impugned awards, so the same are upheld and the petitions as well as the pending applications are dismissed.

**GIRISH KATHPALIA
(JUDGE)**

FEBRUARY 03, 2025/as