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

% ***Judgment pronounced on: 18.02.2026***

\+ **W.P.(C) 41/2026 and CM APPL.93/2026**

PRECISION SCIENTIFIC AND TESTING EQUIPEMNT PVT LTD
.....Petitioner

Through: Mr. Ishan Sachdeva, Advocate.

versus

BRAHMANAND GAUTAM .....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

CM APPl.94/2026 (Exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

W.P.(C) 41/2026

3. The present petition has been filed by the petitioner assailing an award dated 14.11.2025 passed by the Presiding Officer, Labour Court-IV, Rouse Avenue Courts, New Delhi in L.I.R No. 112/2024.

4. The Labour Court adjudicated the reference made under Section 10(1)(c) and 12(5) of the Industrial Disputes Act, 1947 (hereinafter referred as "the IDA") by the Deputy Labour Commissioner, New Delhi, in view of a complaint filed by the respondent/workman against the petitioner and directed the petitioner to pay a lumpsum compensation of Rs. 1,50,000/- to respondent/workman on account of violation of Section 25F of the IDA.

5. The petitioner in the present petition is a company which formerly

manufactured testing machines and laboratory equipments. It is stated that the said company ceased its operations w.e.f. from 01.04.2023. The respondent/workman is stated to be a former employee of the petitioner.

6. The learned counsel on behalf of the petitioner submits that conclusion drawn upon in the impugned award is contrary to the evidence on record and based on mere conjectures and surmises. Therefore, the impugned decision is perverse and passed in violation of Section 11 of the IDA.

7. It is further submitted that the lumpsum compensation amounting to Rs. 1,50,000/- awarded in favour of the respondent/workman is arbitrary and without any basis inasmuch as: -

i. the same was allegedly awarded by the Court without any cogent rationale or computation merely in lieu of relief of reinstatement;

ii. the respondent/workman was not terminated by the petitioner instead he himself abandoned the employment of the petitioner;

iii. during cross examination the respondent/workman allegedly admitted that he was earning daily wages pursuant to his termination and also failed to specify any timeline during which he remained unemployed after the alleged termination;

iv. although the petitioner's unit had discontinued its operation, the management of the petitioner offered reinstatement to the respondent/workman at a different unit (owned by the mother of one of the directors of the petitioner) situated at Manesar, Haryana which the respondent/workman did not avail.

8. It is noticed that although the petitioner contends that the respondent/workman abandoned the employment, a bare perusal of the

cross-examination of the petitioner's director (MW1 before the Labour Court) reveals a categorical admission that the employment of respondent/workman was, in fact, terminated by the petitioner. The same has been noticed by the Court in the impugned award as under: -

> *"44) On the issue of illegal termination, it is important to note that MW1 Nitin Tully has categorically admitted that management had terminated the services of the workman and therefore, the onus has shifted on management to justify its action of termination of the workman in terms of guidelines laid down in the judgment of Workmen of Firestone Tyre & Rubber Co. of India (P) Ltd v. The Management of Firestone Tyre & Rubber Co. of India (P)Ltd and Others. (1973) 1 SCC 813.*
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> *45) The justification furnished by management witness MW1 in his evidence affidavit for termination of the workman is that workman had stopped attending his duties, on his own due to personal and medical reasons and that management had issued a notice to him before terminating him. However, admittedly the management has not placed on record copy of any such showcause notice/notice of termination or any other relevant document.*
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> *46) Now in present case, even if it is presumed for the sake of arguments that the workman himself had stopped attending his duty in the management, in that case, it was the duty of management to ask him to join duty as it is settled position of law that if a workman/workman fails to report for duty, the management is bound to call upon him to join duty. It has been held by Hon'ble Delhi High Court in M/s Fateh Chand Vs. Presiding Officer, Labour Court & Hari Om Sharma Vs. M/s G.R. Sons Anr:, 2012 (3) SCT 724 as follows:*
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> > *"It is also no more res integra that even in a case of unauthorized absenteeism or to prove abandonment of service on part of the workman the management must place on record necessary material to prove that enough efforts were made by it to call upon the workman to resume back hi duty and the workman has shown his clear reluctance for the same"*
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> *47) But in the instant case, no such material, that is, any notice/ show cause notice or memo issued to the workman asking him to join the duty, has been placed on record by the management. Management has not specifically pleaded in its written statement that it had asked the workman to join his duty during the period of his alleged absenteeism.*
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> *48) Even though, MW1 Sh. Nitin Tully had deposed in his cross-*

examination that management had sent notice to the workman before termination of his service and also a show cause notice regarding his absenteeism to the workman. However copy of aforesaid notice regarding termination as well as show-cause notice regarding absenteeism, has not been placed on record. Moreover, there is no reference of show-cause notice regarding absenteeism of workman, in pleadings of management.

49) Therefore, in absence of any cogent credible evidence on record, this Court cannot presume that the workman had left the services of management and reliance in this regard is placed in the judgment of M/s Fateh Chand Vs. Presiding Officer Labour Court & Am: 2012 LLR 468 Delhi wherein the the Hon'ble High Court of Delhi has observed that the management has to bring on record sufficient material to show that the employee has abandoned the service and abandonment cannot be attributed to the employee without there being-sufficient evidence and that on failure to report for duty, the management has to call upon the employee and if he refuses to report, then an enquiry is required to be ordered against him and accordingly action taken. In the absence of anything placed on record by the petitioner management, no presumption against the workman can be drawn and in the aforesaid case, it was held to be a case of violation of Section 25F of the Act.

50) Since, management has failed to show any reasonable justification for termination of workman by management, therefore, this Court holds that termination of workman by the management is illegal as it is in violation of section 25F of Industrial Disputes Act."

9. The Labour Court has rightly held that categorical admission by the petitioner's director, shifted the burden of proof upon the petitioner. Evidently, the petitioner was unable to establish the legality of the termination and/or that the respondent/workman abandoned the employment.

10. As regard the contention that the respondent/workman chose not to avail offer of reinstatement made by the petitioner at one of its functioning units, the same has been dealt in the impugned award by observing as follows: -

"58. During final arguments, AR of the management has contended that

workman is not entitled to back wages, as management had offered him reinstatement at every step of proceeding, but the workman had not accepted the offer and to buttress his submission, he has relied on deposition of MW 1 Sh. Nitin Tully, in his cross-examination wherein, he had deposed that management was ready and willing to offer job to the workman in another unit of management at Manesar, Haryana, as the Delhi unit of management had shut-down w.e.f. 01.04.2023.

59) Now perusal of written statement of management as well as evidence affidavit Ex. MW1/A of MW1 Sh. Nitin Tully, clearly shows that management had clearly stated therein that it can not reinstate the workman as its operations at B-143/1 Mayapuri Industrial Area Phase-1, New Delhi 110064 had shut down and there was absolutely no disclosure by management regarding its Manesar, Haryana Unit either in its pleadings on evidence affidavit of MW1. Moreover, it has been clarified by AR of the management that the Manesar, Haryana unit is the proprietorship firm of mother of Director of erstwhile management (M/s Precision Scientific and Testing Equipment (P) Ltd.)

60) Therefore, in light of above-said facts and circumstances, the contention of the management that it had offered reinstate to workman at every step of proceedings has remained uncorroborated and thus from its pleading and evidence, baseless and unreliable."

11. The legal position is well settled that in these proceedings under Article 226 of the Constitution of India, this Court cannot interfere with finding/s of facts rendered by a labour court unless the same are wholly unsupported by evidence, arbitrary or perverse in nature. A Division Bench of this Court in ***Dinesh Kumar and Ors. vs. Central Public Works Department and Ors.,*** 2023 SCC OnLine Del 6518 took note of the legal position enunciated by the Supreme Court in this regard as under: -

"**11.** The Hon'ble Supreme Court in paragraph 17 of the judgment in *Indian Overseas Bank* v. *I.O.B. Staff Canteen Workers' Union*, (2000) 4 SCC 245, has held as under:

"17. The learned Single Judge seems to have undertaken an exercise, impermissible for him in exercising writ jurisdiction, by liberally reappreciating the evidence and drawing conclusions of his own on pure questions of fact, unmindful, though aware fully, that he is not exercising any appellate jurisdiction over the awards passed by a tribunal, presided over by a judicial officer. The findings of fact recorded by a fact-finding authority duly constituted for the purpose and which ordinarily should be considered to have become final,

cannot be disturbed for the mere reason of having been based on materials or evidence not sufficient or credible in the opinion of the writ court to warrant those findings, at any rate, as long as they are based upon some material which are relevant for the purpose or even on the ground that there is yet another view which can reasonably and possibly be taken… … The only course, therefore, open to the writ Judge was to find out the satisfaction or otherwise of the relevant criteria laid down by this Court, before sustaining the claim of the canteen workmen, on the facts found and recorded by the fact-finding authority and not embark upon an exercise of reassessing the evidence and arriving at findings of one's own, altogether giving a complete go-by even to the facts specifically found by the Tribunal below."

12. *The Hon'ble Supreme Court in the aforesaid case has held that the findings of fact recorded by a fact finding authority (Tribunal) duly constituted for the purpose becomes final unless the findings are perverse or based upon no evidence. The jurisdiction of the High Court in such matters is quite limited.*

13. *The Hon'ble Supreme Court has taken a similar view in Hari Vishnu Kamath v. Ahmed Ishaque, AIR 1955 SC 233, inter alia held as under:*

"21. … On these authorities, the following propositions may be taken as established : (1) Certiorari will be issued for correcting errors of jurisdiction, as when an inferior Court or Tribunal acts without jurisdiction or in excess of it, or fails to exercise it. (2) Certiorari will also be issued when the court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard or violates the principles of natural justice. (3) The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous. This is on the principle that a court which has jurisdiction over a subject-matter has jurisdiction to decide wrong as well as right, and when the legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy if a superior court were to rehear the case on the evidence and substitute its own findings in certiorari. These propositions are well-settled and are not in dispute.

23. It may therefore be taken as settled that a writ of certiorari could be issued to correct an error of law. But it is essential that it should be something more than a mere error; it must be one which must be manifest on the face of the record. … The fact is that what is an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its

very nature, and it must be left to be determined judicially on the facts of each case."

14. *In Dharangadhara Chemical Works Ltd. v. State of Saurashtra, 1957 SCR 152, the Supreme Court, once again observed that where the Tribunal having jurisdiction to decide a question comes to a finding of fact, such a finding is not open to question under Article 226, unless it could be shown to be wholly unsupported by evidence.*

15. *In Management of Madurantakam Coop. Sugar Mills Limited v. S. Viswanathan, (2005) 3 SCC 193, the Apex Court, held that the Labour Courts/Industrial Tribunals as the case be is the final court of facts, unless the same is perverse or not based on legal evidence, which is when the High Courts can go into the question of fact decided by the Labour Court or the Tribunal. But before going into such an exercise it is imperative that the High Court must record reasons why it intends reconsidering a finding of fact. In the absence of any such defect, the writ court will not enter the realm of factual disputes and finding given thereon.*

16. *In a Constitution Bench judgment of the Supreme Court in Syed Yakoob v. K.S. Radhakrishnan, AIR 1964 SC 477, the Apex Court has inter alia held as under:*

> *"7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 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 is 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 properly, as for instance, it decides a question without giving an opportunity, 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 Article 226 to issue a writ of certiorari can be legitimately exercised (vide Hari Vishnu Kamath v. Syed Ahmed Ishaque, Nagendra Nath Bora v. Commissioner of Hills Division and Appeals, Assam, and Kaushalya Devi v. Bachittar Singh.

8. It is, of course, not easy to define or adequately describe what an error of law apparent on the face of 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 manliest or clear that the conclusion of law recorded by an inferior Court or Tribunal is based on an obvious misinterpretation 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."*
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> ***17.*** *The Hon'ble Supreme Court has in the aforesaid case again dealt with scope of interference by High Court in respect of finding of fact arrived at by Tribunals and in light of the aforesaid judgment, the question of interference by this Court does not arise.*
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> ***18.*** *The Hon'ble Supreme Court in State of Haryana v. Devi Dutt, (2006) 13 SCC 32, has held that the writ Court can interfere with the factual findings of fact only if in case the Award is perverse; the Labour Court has applied wrong legal principles; the Labour Court has posed wrong questions; the Labour Court has not taken into consideration all the relevant facts; or the Labour Court has arrived at findings based upon irrelevant facts or on extraneous considerations.*
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> *(emphasis supplied)*

12. Evidently, the findings/observations in the impugned award are based upon appreciation of the attendant facts and circumstances, and based upon the evidence on record. In the circumstances, there is no occasion for this Court to interfere with the same.

13. Learned counsel on behalf of the petitioner has strenuously opposed awarding of a lumpsum compensation to the respondent/workman on the ground that (as recorded in paragraph 61 of the impugned award), the respondent/workman admitted to having earned 'off and on' as a 'daily wager', pursuant to the alleged termination. It is contended that the respondent/workman having failed to provide any time-period/particulars as regard the said employment, is disentitled for a lumpsum compensation in lieu of reinstatement and back wages.

14. A perusal of the impugned award reveals that the Court, after considering the factual position, took the view that the respondent/workman was ineligible for full back wages in lieu of reinstatement. This was done despite the fact that the alleged employment of the respondent/workman was (even as the version relied upon by the petitioner), quite intermittent. In the

backdrop of finding/s regarding illegal termination, and in the given factual conspectus, the award of lumpsum compensation of Rs.1,50,000/- cannot be said to be perverse or disproportionate.

15. It is trite law that termination which is neither preceded by a show cause notice nor a termination letter to the concerned employee is violative of Section 25F of the IDA and renders termination *void ab initio*. In such circumstances, since the said violation constitutes illegal retrenchment, the concerned employee/workman, is entitled to either reinstatement and /or back wages/lumpsum compensation, as deemed appropriate by the concerned court, based on facts and circumstances.

16. The Supreme Court in ***Maharashtra State Road and Transport Corporation vs. Mahadeo Krishna Naik*** (2025) 4 SCC 321 has held that where a workman pleads unemployment on account of illegal termination, and even where, the employer proves gainful employment, quantum of compensation or back wages lies within the Court's discretion. The discretion must be guided by twin considerations *viz*. that the workman was displaced by the illegal termination, and may have been compelled to seek alternate employment for bare survival. The relevant portion of the said judgment reads as under: -

> "*45. We cannot but endorse our wholehearted concurrence with the views expressed in the aforesaid decisions. Taking a cue therefrom, it can safely be concluded that ordering back wages to be paid to a dismissed employee — upon his dismissal being set aside by a court of law — is not an automatic relief; grant of full or partial back wages has to be preceded by a minor fact-finding exercise by the industrial adjudicator/court seized of the proceedings. Such exercise would require the relevant industrial court or the jurisdictional High Court or even this Court to ascertain whether in the interregnum, that is, between the dates of termination and proposed reinstatement, the employee has been gainfully employed. <u>If the employee admits of any gainful employment</u>*

> *and gives particulars of the employment together with details of the emoluments received, or,* ***if the employee asserts by pleading that he was not gainfully employed but the employer pleads and proves otherwise to the satisfaction of the court, the quantum of back wages that ought to be awarded on reinstatement is really in the realm of discretion of the court. Such discretion would generally necessitate bearing in mind two circumstances : the first is, the employee, because of the order terminating his service, could not work for a certain period under the employer and secondly, for his bare survival, he might not have had any option but to take up alternative employment.***
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> *xxx* *xxx* *xxx*
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> ***49.*** *We hasten to add that the courts may be confronted with cases where grant of lump sum compensation, instead of reinstatement with back wages, could be the more appropriate remedy. The courts may, in such cases, providing justification for its approach direct such lump sum compensation to be paid keeping in mind the interest of the employee as well as the employer."*
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> (emphasis supplied)

17. In the aforesaid conspectus, this Court finds no ground to interfere with the impugned award. The present petition is accordingly, dismissed. The pending application also stands disposed of.

SACHIN DATTA, J

FEBRUARY 18, 2026/*sl*