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

% Reserved on : 15.01.2026
Pronounced on : 18.02.2026
Uploaded on : 18.02.2026

\+ **W.P.(C) 6817/2019**

THE COMMISSIONER EAST DELHI MUNICIPAL CORPORATION .....Petitioner

Through: Ms. Namrata Mukim, Standing Counsel for MCD with Ms. Niharika Singh, Advocate with Mr. Vipin Kumar, JSA, MCD

versus

GANGA VERMA & ANR .....Respondents

Through: Mr. Krishna Chandra Dubey and Ms. Uma Tarafdar, Advocates

**CORAM:**
**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**JUDGMENT**

**W.P.(C) 6817/2019 & CM APPL. 57180/2024**

1. Challenge made in the present petition under articles 226 and 227 of the Constitution of India, pertains to an award dated 09.10.2017 in LIR No. 8730/2016 passed by the learned Additional District and Sessions Judge, Presiding Officer, Labour Court – XIX, Karkardooma Courts, Delhi,

whereby the management was directed to reinstate the services of the claimant on the same job with effect from 01.12.2014 i.e., the day of termination of her services along with 75% of back wages and all consequential benefits, including promotion (if any).

2. The workman had approached the Labour Court claiming in her claim application that she had joined the services of the East Delhi Municipal Corporation (hereinafter referred to as 'Management 1') through M/s Gaurav Enterprises (hereinafter referred to as 'Management 2') as a Security Guard since May 2012, and was drawing a salary of Rs.8,632/- till her services were terminated on 01.12.2014. During the course of her employment, she was employed at the Community Centre and Recreation Centre maintained by Management 1. It was stated that Management 1 was the principal employer and that Management 2 was an unauthorized contractor. It was claimed that it was a sham entity.

3. Management 1 appeared and filed its written statement wherein they objected to the claimant disclosing any cause of action against it. They claimed that they had entered into an agreement with Management 2 in the year 2007, vide which the latter had agreed to provide private security for Kasturba Gandhi Hospital, which was under control of Management 1. The security guards were hired on contractual and temporary basis, accordingly, there existed no employer-employee relationship between the claimant and Management 1. The engagement was made by Management 2, and that too on temporary basis. Management 2 has also filed its written statement,

stating that the contract came to an end in May, 2014. The workman was engaged by Management No.1.

4. Learned counsel for the petitioner/Management 1 contended that, while passing the impugned award, the Labour Court erred in concluding that Management 2 merely acted as an agent of Management 1 for supplying security guards under the contract, and that an employer-employee relationship existed between the workmen and Management 2.

5. The aforesaid contentions are refuted by learned counsel appearing for Management 2. It was submitted that Management 2 was only facilitating the engagement as an agent of Management 1.

6. On the other hand, learned counsel for the claimant defended the impugned order. It was submitted that Management 2 had no license to operate and that no appointment letter was issued to the claimant. Learned counsel further submitted that the workmen, including the present claimant, had earlier approached the concerned Authority under the Minimum Wages Act, 1948 as they were being paid wages lower than the rates fixed by the Government of NCT of Delhi. In the said proceedings, Management 1 was directed to pay the arrears of minimum wages along with compensation to the workmen.

7. A perusal of the record would show that Management 1 had floated a tender no. 10306 for the engagement of private security services for hospitals. The bid no. 1205 of submitted by Management 2 was accepted, and the Contract was granted to it vide communication dated 31.10.2007.

8. While the claimant asserted that she was appointed with Management 1 through Management 2, the documentary evidence on record concededly, would show that the claimant was employed without the issuance of any appointment letter and was not provided statutory benefits such as ESI, PF, weekly holidays, leave, overtime wages, conveyance allowance, or annual increments. Management 1 has claimed that upon invoices being raised, it had released the amounts to Management 2, who in turn paid the wages to the workmen including the claimant.

9. Though learned counsel for the petitioner has referred to the Award passed in earlier proceedings dated 31.05.2016 under the Minimum Wages Act, 1948, a perusal thereof shows that the said proceedings are not concerned with the issue regarding whether there existed any employer-employee relationship between the workmen/claimant and Management 1. A perusal of the said Award would show that Management 1 had appeared and undertaken to pay the wages. It is trite that the burden to prove that the claimant was in the employment of a particular management, primarily lies upon the person asserting such relationship.

10. The scope of interference by this Court while exercising Writ jurisdiction is limited. It is well settled that the High Court does not act as an appellate forum over findings of fact recorded by the Tribunal. In this regard, reference may be made to *International Airport Authority of India v.*

*International Air Cargo Workers Union*[1], 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 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."*

11. At this stage, it would also be apposite to refer to the observations of a Coordinate Bench of this Court examining the scope of interference under Article 226 of the Constitution of India. The findings returned by the Labour Court do not disclose any perversity or jurisdictional error so as to warrant interference. This Court has considered the scope of its writ jurisdiction in '*Ritz Theatre Private Limited v. Ramesh Chandra*' in **W.P.(C) 6173/2024**, wherein it was held as under:

> "*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*

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*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 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*."

12. The legal position regarding determination of an employer-employee relationship is well settled. As stated by a Coordinate Bench of this Court in *Indraprastha Gas Ltd. v. Ambrish Kumar*[2], the initial burden to establish such relationship lies upon the workman who asserts it. Only upon discharge of this initial burden, does the onus shift to the management to rebut the evidence and disprove the claim. The existence of such relationship is essentially a question of fact to be determined on the basis of the cumulative

[2] 2025 SCC OnLine Del 8896

material on record. No single factor is conclusive, rather, the totality of circumstances must guide the adjudication.

13. In the present case, the claimant had continued to work with the Management 1 till her services were terminated on 01.12.2014. It has been claimed that Management 2 did not have any license from GNCT of Delhi. Management 2 simply acted as an agent for supply the security guards.

14. The decisions referred to above, further clarifies this Court does not sit in appeal over factual findings of the Labour Court. Interference is warranted only where such findings are shown to be perverse or unsupported by evidence.

15. Accordingly, the petition along with the pending application are dismissed.

**MANOJ KUMAR OHRI**
**(JUDGE)**

**FEBRUARY 18, 2026**
*pmc*