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

*Reserved on: 28th April, 2026
Date of Decision 08th July, 2026
Uploaded on 09th July, 2026*

+ W.P.(C) 3734/2013, CM APPL. 15403/2018

M/S INDRAPRASHTA GAS LIMITEDPetitioner

Through: Ms.Raavi Birbal, Adv.

versus

ABDUL HAFEEZ KHANRespondent

Through: Mr. Krishna Dev Pandey, Adv.

CORAM:

HON'BLE MS. JUSTICE SHAIL JAIN

JUDGMENT

SHAIL JAIN, J.

1. The present writ petition under Articles 226 and 227 of the Constitution of India has been instituted by M/s Indraprastha Gas Limited (*hereinafter referred to as "the Petitioner" or "IGL"*), assailing the Award dated 19.02.2011 passed by the learned Presiding Officer, Labour Court No. XII, Karkardooma Courts, Delhi in Industrial Dispute No. 263/2008 .

FACTUAL BACKGROUND

2. The present petition arises out of an industrial dispute concerning the alleged termination of services of the respondent/workman, Sh. Abdul Hafeez Khan. The dispute came to be



referred for adjudication by the Secretary (Labour), Government of NCT of Delhi, *vide* Reference Order No. F.24(126)/03/Lab./3782-86 dated 03.06.2003 under Sections 10(1)(c) and 12(5) of the Industrial Disputes Act, 1947. The terms of the said reference read as follows:

"Whether the services of Sh. Abdul Hafeez Khan s/o Sh. Abdul Hamid have been terminated by the management illegally and / or unjustifiably and if so to what sum of money as monetary relief along with consequential benefits in terms of existing laws/ Govt. Notifications and to what other relief is he entitled and what directions are necessary in this respect.?"

3. Pursuant to the aforesaid reference, the respondent-workman filed a Statement of Claim before the Labour Court. The case set up by the workman was that he had been working as a Technician at a CNG station situated at NH-24, Gazipur, Delhi, and that his services came to be discontinued on 20.08.2002. It was his case that the said termination was illegal and unjustified and entitled him to reinstatement with consequential benefits.

4. The petitioner/management entered appearance and contested the claim by filing its Written Statement. Besides raising a preliminary objection regarding the maintainability of the reference, it denied the existence of any employer-employee relationship with the respondent and asserted that the respondent had been engaged through an independent contractor.

5. On the basis of the pleadings and material placed before it, the Labour Court framed the following issues:

i) As per terms of reference;



ii) Whether there is no relationship of employer and employee between the parties?

iii)Relief.

6. Upon conclusion of evidence and hearing of the parties, the Labour Court passed the impugned Award dated 19.02.2011 , whereby the reference was answered in favour of the respondent-workman and he was directed to be reinstated with consequential reliefs.

7. Aggrieved by the aforesaid Award, the petitioner/management has instituted the present writ petition seeking judicial review thereof under Articles 226 and 227 of the Constitution of India.

SUBMISSIONS ON BEHALF OF THE PETITIONER

8. Learned counsel appearing on behalf of the petitioner assails the impugned Award on the ground that the Labour Court erred in holding that an employer-employee relationship existed between the petitioner-management and the respondent-workman. It is submitted that the respondent failed to produce any documentary evidence establishing his direct employment with the petitioner and, consequently, failed to discharge the initial burden cast upon him in law. According to the petitioner, the Labour Court nevertheless proceeded to hold that an employer-employee relationship stood established despite expressly recording that the respondent had not produced any document demonstrating that he was an employee of the petitioner-management.

9. Learned counsel submits that the respondent was never employed by the petitioner but had been engaged through an



independent contractor, namely M/s Mahajan Enterprises. In support of the said defence, reliance is placed upon the operating agreement, the registration certificate obtained under the Contract Labour (Regulation and Abolition) Act, 1970, the contractor's wage records, Provident Fund records, Employees' State Insurance records and the petitioner's recruitment policy. It is submitted that the petitioner was a registered principal employer under the Contract Labour (Regulation and Abolition) Act, 1970 and that the contractor possessed a valid licence thereunder. According to the petitioner, the Labour Court failed to appreciate the aforesaid documentary evidence in its proper perspective.

10. It is further submitted that the issue concerning the status of similarly situated Driver Salesmen and Technicians engaged at the petitioner's CNG stations had earlier been considered by the Industrial Tribunal in I.D. No. 99/2003 instituted by Vyapar Thatha Udyog Karamchari Sangh on behalf of 216 workmen, including the respondent herein. By Award dated 20.12.2011, the Industrial Tribunal held that such workmen were employees of the respective contractors and not of the petitioner-management. Learned counsel submits that the said Award was upheld by this Court in *Vinay Sharma & Ors. v. Indraprastha Gas Ltd. & Anr.* [W.P.(C) No. 6657/2012], and that the reasoning adopted therein supports the petitioner's challenge to the impugned Award.

11. Reliance is also placed upon the decision of this Court in *M/s Indraprastha Gas Ltd. v. Ambrish Kumar* [WP.(C) 3743/2013], wherein, in the context of a similar dispute involving the petitioner-



management, this Court reiterated that the burden of establishing an employer-employee relationship rests upon the workman and that the mere performance of duties at the premises of the principal employer does not, by itself, establish direct employment. Learned counsel submits that the impugned Award is inconsistent with the principles recognised in the aforesaid decisions.

12. Learned counsel further places reliance upon the decisions of the Supreme Court in *Balwant Rai Saluja v. Air India Ltd.*, 2014 (3) LLN 568 (SC) ; *National Aluminium Co. Ltd. v. Ananta Kishore Rout*, (2014) 6 SCC 756; *General Manager (OSD), Bengal Nagpur Cotton Mills v. Bharat Lal & Anr* , (2011) 1 SCC 635; and *S.C. Chandra & Ors v. State of Jharkhand & Ors*, (2007) 8 SCC 279 to contend that the existence of an employer-employee relationship is to be determined with reference to recognized indicia such as the power of appointment, payment of wages, disciplinary control, supervision and the right to terminate service. It is submitted that none of these indicia stood established.

13. Without prejudice to the aforesaid submissions, learned counsel contends that the Labour Court recorded a finding regarding completion of 240 days of continuous service without independently examining the evidence on record. It is submitted that the burden of proving completion of 240 days rested upon the respondent-workman and that no cogent documentary material was produced by him in support thereof. Reliance is placed upon the decision of the Supreme Court in *Range Forest Officer v. S.T. Hadimani*, (2002) 3 SCC 25.



14. It is further contended that the Labour Court erroneously inferred the existence of an employer-employee relationship merely because the respondent discharged his duties at the petitioner's CNG station. According to the petitioner, such reasoning overlooks the settled distinction between a principal employer and the employee of a contractor. It is submitted that, in the absence of a direct employer-employee relationship, the question of illegal termination by the petitioner did not arise.

15. Lastly, learned counsel reiterates the objection regarding jurisdiction and submits that the appropriate Government in relation to the petitioner was the Central Government and not the Government of NCT of Delhi. It is, therefore, contended that the reference itself was without jurisdiction and that the impugned Award is liable to be set aside on this ground as well.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

16. *Per contra*, learned counsel appearing on behalf of the respondent/workman supports the impugned Award and submits that it does not suffer from any illegality, perversity or jurisdictional infirmity warranting interference in exercise of the writ jurisdiction of this Court. It is contended that the Labour Court, upon due appreciation of the pleadings, oral and documentary evidence, rightly concluded that the respondent was an employee of the petitioner-management and that the termination of his services was illegal and unjustified.

17. Learned counsel submits that the respondent had been working as a Technician with the petitioner since 23.06.2001 and was drawing



monthly wages of Rs. 5,160/-. It is contended that, despite rendering continuous service, the respondent was not extended statutory benefits such as an appointment letter, ESI facilities and overtime benefits. According to the respondent, when he demanded such benefits and sought regularisation of his services, his services were terminated on 20.08.2002 without compliance with the provisions of the Industrial Disputes Act, 1947. It is submitted that the respondent thereafter approached the Labour Authorities, issued a demand notice and participated in conciliation proceedings, which ultimately culminated in the present reference.

18. Learned counsel further submits that the petitioner's plea that the respondent had been engaged through an independent contractor was rightly rejected by the Labour Court. It is contended that the name of the alleged contractor was not disclosed in the written statement and that the operating agreement relied upon by the petitioner pertained to a period subsequent to the respondent's alleged termination. It is, therefore, submitted that the said agreement did not establish the existence of any contractor arrangement during the relevant period. It is further submitted that the petitioner neither produced the attendance registers, wage registers and other primary employment records despite requests made before the Labour Court, nor examined any representative of the alleged contractor.

19. It is further contended that the operational records produced by the respondent, coupled with the admitted position that he had been discharging duties at the petitioner's CNG station, sufficiently established the respondent's employment with the petitioner-



management. Learned counsel submits that the petitioner also failed to place on record any reply to the respondent's demand notice, which lends support to the respondent's case.

20. On the question of jurisdiction, learned counsel submits that the reference made by the Government of NCT of Delhi was validly made and that the Labour Court rightly rejected the petitioner's objection in that regard.

21. It is lastly submitted that the findings recorded by the Labour Court are findings of fact based upon appreciation of the evidence on record and do not warrant interference in exercise of the supervisory jurisdiction of this Court under Articles 226 and 227 of the Constitution of India. The present writ petition is, accordingly, liable to be dismissed.

ISSUES FOR CONSIDERATION

22. The principal question that arises for consideration is whether the impugned Award dated 19.02.2011 passed by the Labour Court suffers from any illegality, perversity or error of law warranting interference by this Court in exercise of its jurisdiction under Articles 226 and 227 of the Constitution of India.

ANALYSIS AND FINDINGS

23. The Court has heard counsel for the parties and perused the material placed on record.

24. At the outset, it is necessary to reiterate the limited scope of judicial review exercised by this Court under Articles 226 and 227 of the Constitution of India. The jurisdiction is supervisory and not appellate in nature. This Court does not sit as a Court of appeal over



the findings recorded by the Labour Court, nor does it re-appreciate the evidence merely because another view on the same material may also be possible. Interference is warranted only where the impugned Award suffers from jurisdictional error, perversity, is based on no evidence, ignores material evidence, or proceeds upon a misapplication of settled legal principles. Where the findings are founded upon a proper appreciation of the evidence and represent a plausible view, they ordinarily do not warrant interference in exercise of writ jurisdiction. This principle stands authoritatively settled in *Syed Yakoob v. K.S. Radhakrishnan*, AIR 1964 SC 477. The same principle has been reiterated by the Supreme Court in *Workmen of Nilgiri Coop. Mkt. Society Ltd. v. State of Tamil Nadu*, (2004) 3 SCC 514, wherein it was observed that the question whether an employer-employee relationship exists is essentially one of fact and ordinarily does not warrant interference in exercise of writ jurisdiction unless the finding is manifestly erroneous or perverse. It is in the aforesaid legal backdrop that the challenge to the impugned Award falls for consideration.

25. A perusal of the impugned Award shows that the Labour Court answered the reference in favour of the respondent-workman. The Labour Court held that an employer-employee relationship existed between the petitioner/management and the respondent/workman, rejected the petitioner's defence that the respondent had been engaged through an independent contractor, namely M/s Mahajan Enterprises, and concluded that the respondent had completed more than 240 days of continuous service. On that basis, it held that the respondent's



termination was illegal and unjustified for non-compliance with the provisions of the Industrial Disputes Act.

26. Consequently, the Labour Court directed reinstatement of the respondent/workman with continuity of service, *albeit* without back wages, and also awarded compensation. The operative portion of the impugned Award reads as under:

"Taking a collective assessment of the facts of the case and my findings above and in the pursuits of objects of justice the management no.1 is directed to reinstate the workman with continuity of service without back wages from the date of his termination. Since, no one can survive without any livelihood so it can be presumed that during the period of his termination workman might have been working somewhere else. Further management no.1 is also directed to pay Rs.45,000/- as compensation to the workman since he has fought a long battle for about 8 years. The compensation will be paid within three months from the date of its enforceability i.e. from the notification of Award, failing which workman shall be entitled to recover the amount of compensation with interest @ 9% per annum from the date of award."

27. The Labour Court further recorded that Management No.2 had already been deleted from the array of parties *vide* order dated 07.01.2010, there being no concern of the said management with the dispute in question.

28. The petitioner has also questioned the competence of the Government of NCT of Delhi to make the present reference, contending that the appropriate Government was the Central Government within the meaning of Section 2(a) of the Industrial Disputes Act, 1947. The Labour Court rejected this objection and held



the reference to be competent. Since the present petition can be disposed of on the substantive findings recorded hereinafter, it is neither necessary nor appropriate to examine the correctness of that finding.

29. The principal issue which falls for consideration is whether the finding recorded by the Labour Court regarding the existence of an employer-employee relationship between the petitioner/management and the respondent/workman can be sustained in law. The determination of this issue is governed by the settled legal principles relating to the burden of proving the existence of an employer-employee relationship where such relationship is itself in dispute.

30. In *Workmen of Nilgiri Coop. Mkt. Society Ltd. v. State of Tamil Nadu*, (2004) 3 SCC 514, the Supreme Court observed as under:

“Burden of proof

47. It is a well-settled principle of law that the person who sets up a plea of existence of relationship of employer and employee, the burden would be upon him.

48. In N.C. John v. Secy., Thodupuzha Taluk Shop and Commercial Establishment Workers' Union [1973 Lab IC 398 : (1973) 1 LLJ 366 (Ker)] the Kerala High Court held: (LAB IC p. 402, para 9) The burden of proof being on the workmen to establish the employer employee relationship an adverse inference cannot be drawn against the employer that if he were to produce books of accounts they would have proved employer-employee relationship.

49. In Swapan Das Gupta v. First Labour Court of W.B. [1976 Lab IC 202 (Cal)] it has been held: (LAB IC para



10) Where a person asserts that he was a workman of the company and it is denied by the company, it is for him to prove the fact. It is not for the company to prove that he was not an employee of the company but of some other person.

50. The question whether the relationship between the parties is one of employer and employee is a pure question of fact and ordinarily the High Court while exercising its power of judicial review shall not interfere therewith unless the finding is manifestly or obviously erroneous or perverse.

[Emphasis Supplied]

The aforesaid principle also stands reinforced by the decision of this Court in *Chhathoo Lal v. Management of Goramal Hariram Ltd., W.P.(C.) No. 14191/2004*, wherein it was held that the issue of the employer-employee relationship goes to the very root of the Labour Court's jurisdiction and is incidental to a reference alleging illegal termination. Unless the workman first establishes that he was an employee of the management against whom relief is claimed, no question of illegal termination by that management can arise.

31. The aforesaid decisions, read together, lay down the principles governing the present case. They make it clear that the existence of an employer-employee relationship is not determined merely by the place where the work is performed, but by considerations such as the power of appointment, payment of wages, maintenance of service records, disciplinary and administrative control, supervision, and the authority to terminate service. It is in the light of these considerations that the evidence in the present case falls to be examined. The initial burden of establishing the existence of a direct employer-employee relationship



rests upon the workman who asserts it, since the existence of such relationship constitutes the foundational fact on which both his claim and the Labour Court's jurisdiction to adjudicate a reference alleging illegal termination depend. That burden is neither discharged nor displaced by the management's failure to produce relevant records, for an adverse inference arising from such non-production may, at best, lend support to a case otherwise established but cannot be invoked to create one where none exists. Equally, the adjudicatory forum must first determine whether the workman has discharged that burden before examining the sufficiency of the management's defence, for the sufficiency or otherwise of the management's defence cannot determine whether the workman has proved his own case. To proceed otherwise would invert the legally prescribed order of enquiry.

32. Tested on the touchstone of the aforesaid principles, the first question that falls for consideration is whether the respondent/workman succeeded in establishing the existence of a direct employer-employee relationship with the petitioner/management.

33. The respondent's case throughout has been that he was directly appointed by the petitioner/management and was never engaged through any contractor. The evidence led by the respondent must, therefore, be examined to determine whether that assertion stands established.

34. In support of his case, the respondent examined himself by way of affidavit and relied upon certain operational records maintained at the petitioner's CNG station. In his cross-examination, however, he



admitted that no appointment letter had ever been issued to him by the petitioner, no pay slip had been issued in his favour, and no order of termination had been served upon him. He was further unable to produce any Provident Fund record, Employees' State Insurance record or any other document showing that his wages were paid by the petitioner, that the petitioner maintained his service records, or that it exercised disciplinary or administrative control over him.

35. The operational records relied upon by the respondent, namely the control room shift log books, technician deployment sheets, duty rosters and the Diwali gift distribution list, are likewise silent as to who engaged him, who paid his wages, who maintained his service records or who exercised disciplinary or administrative control over him. It is further material that the respondent's name is recorded inconsistently across these documents, appearing as "Hafeez Khan" in one register, "Hafiz Khan" in another and "Abdul Khan" in a third. These inconsistencies materially detract from the evidentiary value of the documents relied upon by the respondent.

36. The respondent also sought to establish his direct recruitment by placing reliance upon a newspaper advertisement allegedly issued by the petitioner. The Labour Court rejected the contention on the ground that the newspaper advertisement relied upon by the respondent was published nearly four years after his alleged termination and, therefore, could not substantiate his plea of direct recruitment. That finding is borne out from the record and calls for no interference.

37. Viewed cumulatively, neither the respondent's affidavit nor the documentary material relied upon establishes that the respondent was



appointed by the petitioner, paid wages by it, or that the petitioner maintained the respondent's service records or exercised disciplinary or administrative control. **The evidence led by the respondent is, therefore, insufficient to establish the existence of a direct employer-employee relationship with the petitioner, and the initial burden of proving such relationship remains undischarged.**

38. The enquiry, however, could not conclude there. Despite the respondent having failed to establish the foundational facts necessary to prove direct employment, the Labour Court nevertheless recorded a finding in Workman/Respondent's favour. It therefore becomes necessary to examine the reasoning which led the Labour Court to that conclusion.

39. The Labour Court thereafter proceeded to examine the petitioner's defence. The petitioner's consistent stand, from the conciliation proceedings through its Written Statement and the evidence of *MW-1*, was that the respondent had never been directly employed by the petitioner but had been engaged through an independent contractor named as M/s Mahajan Enterprises, under an operating agreement. According to the petitioner, the contractor was responsible for payment of the respondent's wages, maintenance of his attendance and statutory records, and compliance with the applicable labour laws. In support of this defence, the petitioner relied upon the operating agreement (Ex. MW1/1), the contractor's registration certificate under the Contract Labour (Regulation and Abolition) Act, 1970 (Ex. MW1/2), the contractor's wage records (Ex. MW1/3), the contractor's Provident Fund and Employees' State Insurance records



(Ex. MW1/4), and the petitioner's recruitment policy (Ex. MW1/5). The Labour Court rejected this defence, observing that the contractor's identity had not been disclosed in the Written Statement and surfaced only during the petitioner's evidence, that no witness from M/s Mahajan Enterprises had been examined, and that the operating agreement itself came into force only after the respondent's alleged termination and, therefore, could not establish the existence of a contractor arrangement during the relevant period. The Labour Court cannot be faulted for declining to treat the operating agreement as proof of a contractor arrangement during the relevant period, since a document stated to have become operative only in April 2004 could not establish such an arrangement nearly two years earlier. Likewise, the delayed disclosure of the contractor's identity was a circumstance legitimately bearing upon the credibility of the petitioner's defence. Those conclusions are borne out by the record, and this Court finds no infirmity in that part of the Labour Court's reasoning.

40. The enquiry, however, did not conclude with those findings. The rejection of the petitioner's contractor defence merely negated its plea that the respondent had been engaged through M/s Mahajan Enterprises; it neither established that the respondent was directly employed by the petitioner nor relieved the respondent of the burden of proving such relationship. The decisive question that still required determination was whether the evidence on record independently established the respondent's claim of direct employment. That enquiry necessarily required consideration of all the material evidence bearing upon that issue. In particular, the contractor's wage records, Provident



Fund records and Employees' State Insurance records (Ex. MW1/3 and Ex. MW1/4) bore directly upon the identity of the employer by indicating the entity responsible for payment of wages and maintenance of statutory employment records. Their relevance did not depend upon the operating agreement alone. Yet, while rejecting the operating agreement, the Labour Court did not independently examine those documents, although they formed part of the petitioner's evidence in their own right. Whatever evidentiary weight they ultimately merited, they constituted material evidence on the issue and required independent evaluation. The omission to consider them renders the appreciation of the evidence incomplete.

41. The Labour Court also relied upon certain additional circumstances in support of its conclusion. Their evidentiary significance, however, falls to be examined independently.

42. The first circumstance relied upon by the Labour Court was the admitted fact that the respondent discharged duties at the petitioner's CNG station. That fact established no more than the respondent's presence at the petitioner's establishment. It did not answer the distinct question whether the respondent was directly employed by the petitioner or engaged under some other arrangement. In the absence of evidence identifying the legal basis of the respondent's engagement, that fact, by itself, could not establish a direct employer-employee relationship. The second circumstance was the petitioner's failure to reply to the respondent's demand notice dated 02.09.2002. Such silence could, at best, lend support to a case otherwise established; it could not relieve the respondent of the obligation to prove the



relationship asserted. Nor was such silence inconsistent with the petitioner's case that the respondent had been engaged through an independent contractor. The third circumstance related to the petitioner's non-production of attendance and wage registers. On this aspect, however, the Labour Court itself held that such non-production was "*remote for the purpose to arrive at the conclusion that attendance register and wages register could have contained the name of the workman*" and consequently declined to draw any adverse inference against the petitioner. Having so held, it was not open to the Labour Court to treat the absence of those records as a circumstance reinforcing the respondent's case.

43. Accordingly, this Court finds that none of these circumstances, whether considered individually or collectively, supplied the independent evidentiary foundation necessary to establish the existence of a direct employer-employee relationship between the petitioner and the respondent. The respondent's deployment at the petitioner's CNG station established only that duties were performed at the petitioner's establishment; it did not identify the legal basis of the engagement. The petitioner's silence in response to the demand notice did not establish the relationship asserted by the respondent. Equally, once the Labour Court itself had held that the petitioner's non-production of attendance and wage registers did not justify the drawing of an adverse inference, the absence of those records could not thereafter be relied upon to reinforce the respondent's case. None of these circumstances established the essential facts necessary to prove that the petitioner had directly appointed the respondent, paid



the respondent's wages, maintained the respondent's service records, or exercised disciplinary or administrative control over the respondent. Their cumulative consideration, therefore, could not cure the absence of affirmative evidence establishing the direct employer-employee relationship asserted by the respondent.

44. The cumulative effect of the foregoing discussion brings into focus the infirmity in the reasoning adopted in the impugned Award. The Labour Court rightly held that the operating agreement relied upon by the petitioner with M/s Mahajan Enterprises, pertaining to a period subsequent to the respondent's alleged termination, did not establish the existence of a contractor arrangement during the relevant period. It also rightly treated the delayed disclosure of the contractor's identity as a circumstance bearing upon the credibility of the petitioner's defence and found that the respondent had failed to produce documentary evidence establishing direct employment with the petitioner. Those findings are borne out by the record, and this Court finds no infirmity in that part of the Labour Court's reasoning. On an independent appraisal of the evidence, this Court also finds that the material relied upon by the respondent is insufficient to establish the direct employer-employee relationship asserted, with the result that the respondent's initial burden of proof remained undischarged.

45. The error in the impugned Award arises thereafter. Although the Labour Court had itself found and this Court has, for the reasons already recorded, independently confirmed that the respondent's evidence was insufficient to establish the relationship asserted by him, it nevertheless proceeded to infer a "*probable/proximate nexus*"



between the respondent and the petitioner from the rejection of the petitioner's contractor defence and the surrounding circumstances. The Award discloses no reasoning explaining how the conclusion regarding the existence of a direct employer-employee relationship follows from the very findings that the respondent had failed to produce documentary evidence establishing such relationship. The circumstances relied upon by the Labour Court may explain why the petitioner's contractor defence was not accepted; they do not, without more, constitute affirmative proof that the respondent was directly employed by the petitioner. In substance, therefore, the Award treats the rejection of the petitioner's defence as supplying the proof which the respondent himself failed to produce, thereby impermissibly inverting the settled burden of proof. The finding that a direct employer-employee relationship existed between the petitioner and the respondent, therefore, cannot be sustained. This conclusion also accords with the view taken by this Court in *Vinay Sharma & Ors. v. Indraprastha Gas Ltd. & Anr.* (*Supra*) and *M/s Indraprastha Gas Ltd. v. Ambrish Kumar*,(*supra*) wherein, on comparable facts, it was held that operational records, by themselves, do not establish the existence of a direct employer-employee relationship. Those decisions turned on their own facts and are referred to only to indicate that the conclusion reached in the present case is consistent with the principles applied therein.

46. This is not a case of this Court substituting one plausible view of the evidence for another. The interference arises because the impugned Award proceeds upon a misapplication of the settled burden



of proof and omits to consider material evidence bearing directly upon the identity of the employer, thereby attracting the well-settled parameters governing interference under Articles 226 and 227 noticed at the outset.

47. In view of the finding returned herein that the respondent failed to establish the existence of an employer-employee relationship with the petitioner-management, the question whether he had completed 240 days of continuous service would not ordinarily arise for consideration, the protection under Sections 25-B and 25-F of the Industrial Disputes Act being contingent upon the existence of such relationship. The Labour Court has, however, independently recorded a finding that the respondent had completed more than 240 days of continuous service and founded the relief granted thereon. The correctness of that finding, therefore, also falls for consideration.

48. The legal position is well settled. In *Range Forest Officer v. S.T. Hadimani*, (2002) 3 SCC 25, reiterated in *Surendranagar District Panchayat v. Jethabhai Pitamberbhai*, (2005) 8 SCC 450, the Supreme Court has held that the burden lies upon the workman to establish, by cogent evidence, completion of 240 days of continuous service during the twelve months preceding the alleged termination. The Labour Court was, therefore, required to examine the evidence relating to continuous service independently and record reasons demonstrating how the statutory requirement stood satisfied.

49. On examining the impugned Award, this Court finds that no such independent exercise has been undertaken. While recording that the respondent had completed more than 240 days of continuous



service, the Labour Court neither identifies the evidence on which that finding rests nor records any independent reasons demonstrating how the requirement of Section 25-B of the Industrial Disputes Act stood fulfilled. Instead, the finding appears to have followed as a natural consequence of the Labour Court's conclusion regarding the existence of an employer-employee relationship rather than from an independent appraisal of the evidence relating to continuous service.

50. This Court is, therefore, unable to sustain the finding regarding completion of 240 days of continuous service. Once the finding regarding the existence of an employer-employee relationship has been found to be unsustainable, the consequential finding regarding completion of 240 days of continuous service, unsupported as it is by any independent evaluation of the evidence, also cannot be sustained. **The finding returned by the Labour Court in that regard is, accordingly, set aside.**

51. This Court has also considered whether the matter should be remanded to the Labour Court for fresh adjudication. The error identified herein is not merely one of inadequate discussion, but of a fundamental misapplication of the settled principles governing the burden of proof. The industrial dispute arises from an alleged termination in the year 2002, the reference was made in 2003, and the impugned Award was rendered in 2011. More than two decades have since elapsed. In these circumstances, and the respondent having failed to establish the foundational facts necessary to prove a direct employer-employee relationship, no useful purpose would be served by remanding the matter for a fresh consideration of the same



evidence. The interests of justice are, therefore, better served by finally determining the issue.

52. For all the aforesaid reasons, the impugned Award warrants interference in exercise of this Court's supervisory jurisdiction under Articles 226 and 227 of the Constitution of India.

CONCLUSION

53. In view of the conclusions recorded on the merits, it is unnecessary to record any final finding on the objection raised by the petitioner regarding the competence of the Government of NCT of Delhi to make the present reference.

54. Accordingly, the Award dated 19.02.2011 passed by the Presiding Officer, Labour Court No. XII, Karkardooma Courts, Delhi in Industrial Dispute No. 263/2008 is hereby **set aside**.

55. The writ petition is, accordingly, allowed.

56. There shall be no order as to costs, and all pending applications, if any, also stand disposed of.

SHAIL JAIN, J

JULY 8, 2026

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