



2026:DHC:7619



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on:05.08.2026
Judgment pronounced on:08.09.2026
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CNR No. DLHC011292372016

+ W.P.(C) 4091/2016 & CM APPL. 19629/2024

M/S VADHERA OIL COMPANY Petitioner

versus

**THE PRESIDING OFFICER LABOUR COURT DELHI
AND ANR** Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Jaspreet & Ms. Shweta, Advs.

For the Respondent : Ms. Somya Singh, Mr. Anshul Sharma &
Mr. Monik Nagil, Advs. for R2 with R2 in
person

**CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN**

JUDGMENT

1. The present petition is filed challenging the correctness of award dated 09.02.2016 (hereafter '**impugned award**'), passed in Reference Case (ID) No. 356/2012, whereby the learned Labour Court found the termination of Respondent No.2 workman to be illegal and awarded him a lump-sum compensation of ₹1,50,000/- and litigation expenses of ₹20,000/-.



2. Briefly stated, a dispute was raised by the workman on the strength of his claim that he had been working with the petitioner management as a driver since January, 2003. It was further claimed that no appointment letter was issued to the workman and the petitioner management stopped paying the entire salary of the workman since July, 2008. Allegedly, when the workman demanded payment of the balance amount, he was assured that the same will be paid if the workman runs into any emergency. Subsequently, the workman was terminated on 28.08.2011 without any notice or reason, and without payment of his salary balances which were withheld since July, 2008. It was further alleged that the petitioner management had taken the workman's signatures on multiple blank documents and he had not been paid his wages for August, 2011 as well.

3. By the impugned award, the learned Labour Court decided the dispute in favour of the workman. After appraising the evidence on record, the learned Labour Court rejected the petitioner's defence of there being no employer-employee relation and found that such a relation had been established on the basis of preponderance of probabilities. It was found that the workman was terminated in violation of Section 25F of the Industrial Disputes Act, 1947. However, considering that no material was put forth by the workman that he had made a sincere attempt at getting a job, a lump-sum compensation of ₹1.5 lakhs was awarded to him in *lieu* of reinstatement. It was further directed that interest at the rate of 9% per



annum will be payable to the workman in case the amount is not paid within one month of the award being passed.

4. Aggrieved by the same, the petitioner filed the present writ petition.

5. The learned counsel for the petitioner submitted that the petitioner was a very small firm with limited employees and the same was closed in the year 2016. He submitted that although the workman was hired as an independent contractor for loading up kerosene on a few occasions in the years 2004, 2006 and 2010-2011, however, such engagements were on temporary basis and he was never employed by the petitioner.

6. He submitted that the entire case set up by the workman is false and there are significant inconsistencies in the evidence of the workman in relation to his wages as well. He submitted that no credible document was adduced by the workman to establish the employer-employee relation and he cannot be deemed to be an employee merely because the petitioner has been mentioned as an employer on a gate pass that was issued only to allow access/entry.

7. He submitted that the learned Labour Court failed to appreciate that the workman had not proved the employer-employee relation and even if the gate passes are found to be credible, the same does not show that the minimum threshold of 240 days of continuous work in a year is met. He further submitted that the petitioner's assertion of the



workman offering his services with his own vehicle are corroborated by the fact that the workman has admitted the ownership of the vehicle. He submitted that the same shows that the workman was not merely driving the vehicle but his vehicle was taken for transport.

8. *Per contra*, the learned counsel for the workman submitted that the impugned award suffers from no infirmity and the learned Labour Court has adequately assessed the material on record as well as the assertions of the petitioner before finding that an employer-employee relationship existed between the parties. She relied on Exhibits WW1/6 (letter dated 03.12.2004 written by management for temporary permission), WW1/8 (ID card of the workman), WW1/11 (experience certificate issued by management) and WW1/12 (ID card of the workman) to buttress the assertion that an employer-employee relation existed between the parties.

ANALYSIS

9. At the outset, it is relevant to note that the petitioner has invoked the writ jurisdiction of this Court. Interference in exercise of writ jurisdiction is only warranted when the order suffers patent illegality, perversity or an error apparent on the face of the record. If a view adopted by the Labour Court is possible and reasonable, this Court ought not substitute the same even if an alternative view exists. It is not open to this Court to take on the role of an Appellate Court and delve into re-appreciation of evidence. That is however not to say that this Court is precluded from assessing the material on record to



discern whether there is manifest perversity or patent illegality in findings of the Labour Court.

10. The petitioner has contested that Respondent No.2 was only engaged on certain occasions on a temporary basis, and he was never employed by the petitioner so as to entitle him to any relief.

11. Thus, the present case is one where the entire dispute rests essentially on determination of whether there was a valid employer-employee relationship between the parties and if the workman was employed with the petitioner for over 240 continuous days. This is so because the finding of illegal termination in this case is hedged on violation of Section 25F of the Industrial Disputes Act, 1947, and the requirements prescribed in the aforesaid provision only need to be complied if the workman has completed 240 days of continuous service in the year preceding the termination order.

12. Before proceedings further, it is imperative to appreciate that the onus to establish that the employer-employee relationship existed for more than 240 continuous days rests on the workman making such an assertion in the event of denial of such a fact by management [Ref. ***Essen Deinki v. Rajiv Kumar* : 2003 SCC (L&S) 13**]. Reliance in this regard can be made to the decision of another Bench of this Court in ***Chander Sain v. J.B. Garments* : 2009 SCC OnLine Del 905**, where bald assertions of concerned workmen were found to be insufficient to carve out an employer-employee relation and it was held as under:



“8... There is no dispute about the fact that primarily the onus is on the petitioners/workmen to establish that there exists a relationship of employer and employees between the parties. No presumption on this score can be drawn. The said relationship of employer and employees can be established by the petitioners only by a positive evidence like letter of appointment, wage slip or contribution which is made from the salary/wage of the workmen to ESI to the Provident Fund Commissioner. In the instant case, none of such documents or proofs has been produced by the petitioners. The petitioners have not examined any co-workers who would have testified in their favour.

9. On the contrary, all the workmen, who have testified on affidavits and have been cross examined, they had admitted in their cross examination that they were not in a position to produce any document to establish the relationship of employer and employees between the parties. The documents which have been adduced by the petitioners are the complaints purported to have been made by the petitioners to the police authorities. These complaints which are made by the petitioners to the police authorities can hardly be said to be documents to establish the relationship of employer and employees between the parties. They are in the nature of self-serving documents. These documents at best can only show the contemporaneous conduct of a party in law in the given facts and circumstances of a case and these documents can hardly be of any assistance to the petitioners to discharge that initial onus to establish the relationship of employer and employees between the parties which lies squarely on the petitioners. Since the initial onus to establish the relationship of employer and employees between the parties has not been discharged by the petitioners, consequently the said onus never got shifted on to the respondent/management to establish the fact that there existed no relationship of employer and employees between the parties. Reliance in this regard is being placed on the following judgments of the Hon'ble Supreme Court: Workmen of Nilgiri Coop. Mkt. Society Ltd. v. State of Tamil Nadu and Kanpur Electricity Supply Co. Ltd. v. Shamim Mirza, 2008 (4) SCALE 604.”

(emphasis supplied)

13. Adverting to a catena of judgments, in the case of **Ranjeet v. Delhi Jal Board** : 2024 SCC OnLine Del 136, a different Bench of



this Court decided against the workman on finding that no proof was produced to show that the workman had worked for 240 days. The relevant observations made in the said case are as under:

*“35. The Hon’ble Supreme Court in case titled **Essen Deinki v. Rajiv Kumar; 2003 SCC (L&S) 13** observed that the responsibility to prove 240 days of work rests with the employee in case there is any dispute regarding this fact. The relevant portion of the said judgment has been reproduced herein:*

“16. The proof of working for 240 days is stated to be on the employee in the event of any denial of such a factum and it is on this score that this Court in Range Forest Officer V. S.T.Hadimani, was pleased to state as below:

"In our opinion the Tribunal was right in placing the onus on the management without first determining on the basis of cogent evidence that the respondent had worked for more than 240days in the year preceding his termination. It was the case of the claimant that he had worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside."”

*36. In the case of **Kamal Center Cooperative Bank Ltd. Vs L.C. Indl. Tribunal-cum-Labour Court Rohtak&Others. 1994 II LLJ 1005**, the High Court of Punjab and Haryana observed that any worker not having completed 240 days of services doesn't have any right under the Industrial Dispute Act, 1947. The relevant portion of the judgment is as under:-*



"The Industrial workers who do not complete 240 days of service have no industrial rights under the Act and cannot, therefore, avail of the machinery provided under the Act for the settlement of their disputes. The policy **of the Act a distinction between those with service of 240 days and more and other with less**. It was not necessary for the management in the present case to comply with the provisions of Section 25(H) of the Act before dispensing with the service of the workman as be admitted less than, 240 days of service".

37. In the case of **Ram Gopal Saini Vs. The Judge, Labour Court No. 2 Jaipur and Others, 2001 LLR 747**, the petitioner had not completed 240 days of work in a calendar year and therefore the case was not in compliance with Section 25-F of the Act. The relevant portion of the aforesaid judgement is reproduced hereunder:

"The petitioner has not completed days of working in a calendar year, Therefore compliance of Section 25-F of the Act was not required in the instant case."

38. In **Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan [(2004) 8 SCC 161]** the position was again reiterated in para 6 as follows:

" It was the case of the workman that he had worked for more than 240 days in the year concerned. This claim was denied by the appellant. It was for the claimant to lead evidence to show that he had in fact worked up to 240 days in the year preceding his termination. He has filed an affidavit. It is only his own statement which is in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that in fact the claimant had worked for 240 days in a year. These aspects were highlighted in *Range Forest Officer v. S.T. Hadimani [(2002) 3 SCC 25]*. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court to hold that the workman had worked for 240 days as claimed."



39. In case titled **RBI v. S. Mani**, [(2005) 5 SCC 100] a three-Judge Bench of this Court again considered the matter and held that the initial burden of proof was on the workman to show that he had completed 240 days of service. The learned Labour Court's view that the burden was on the employer was held to be erroneous.

40. Similarly, in the case of **Municipal Corpn., Faridabad v. Siri Niwas**, [(2004) 8 SCC 195] it was held that the burden was on the workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment.

41. In the instant case, despite the workman's best efforts to portray that there has been a violation of Section 25G and 25H of the Act, he has failed to prove that he was engaged from 1994 to 2002 on muster roll and that he has completed 240 days of service in a calendar year, prior to his termination. Moreover, the petitioner has failed to bring on record any document supporting his argument that he worked for 240 days."

14. In this case, the onus of proof on workman has been explicitly acknowledged by the learned Labour Court. Undisputedly, no wage slips or letter of appointment were placed on record by the workman, despite which, the learned Labour Court was persuaded to find that an employer-employee relation was made out on the basis of certain ancillary documents. The learned Labour Court was also weighed by the fact that the management had not pleaded in its written submissions regarding the workman having been engaged as a contractor. The workman had relied extensively on certain ID cards, which were admitted by the management *albeit* with the caveat that the same were only for temporary periods. Even if it is ignored that the exhibits WW1/10 and WW1/12 (ID cards) were objected against as they were photocopies, it is apparent that the same were only for limited periods. Though the said cards mention the petitioner as the



employer of the workman, such Identity Cards issued by a third party cannot alone further the case of the workman in absence of cogent proof of continued employment. Perusal of the evidence of MW1 also makes it clear that only temporary permissions were requested by the management which appear to be only for ensuring access.

15. Furthermore, much emphasis is laid that the workman owned the vehicle whose number is mentioned in Ex. WW1/10 (one of the ID cards) and he was only hired as a contractor when he offered his services. The learned Labour Court heavily relied on statement made by the workman on 17.10.2015 that though loan against said vehicle was taken in his name, however, amount left after discharging loan liabilities upon sale of vehicle remained with proprietor of the firm. The workman further asserted that the vehicle was purchased in his name as he was working as a driver. Though the learned Labour Court found that there was no complete explanation in this regard in evidence affidavit of MW1, however, the entire premise of a small firm buying a vehicle in name of its employee instead in name of the firm or a proprietor appears to be *ex facie* implausible and unbelievable. Even though the learned Labour Court noted that the workman only gained ownership of the vehicle in March, 2011 and there was no question of him owning the tanker in the year 2010, it cannot be ignored that the vehicle was financed in the name of the workman himself.



16. The only damning document that could evidence continuous employment is WW1/11, which is an experience letter admittedly bearing stamp and letter head of petitioner management. The said document is however under significant doubt as MW1 has explicitly denied that any experience letter was issued to the workman and also denied knowledge about whether the same is signed by the authorised signatory of management. This document even otherwise does not inspire confidence. It is not explained as to why or in what circumstances the said document came to be issued prior to the workman's purported termination, which renders the same suspect. In such circumstances, as the workman's case is unsupported by any wage slips and there appears to be merit in assertion of the management that he had only offered his services as evidenced by his ownership of vehicle, this Court is of the opinion that the learned Labour Court has erroneously found that an employer-employee relation existed between the parties. It is imperative to note that no specific deference is paid by the learned Labour Court to the tenure of the workman at all which is a pre-requisite for violation of Section 25F of the Act. There is also a flagrant inconsistency in the workman's evidence *qua* quantum of wage as well, which have been unjustifiably brushed aside by the learned Labour Court.

17. Though there are gaps in evidence of the management *qua* record of tanker services availed by them as well as prior engagement of the workman by them for certain periods, on a holistic appraisal of the facts of the present case, as the workman himself has failed to



discharge onus of proof on him, he can derive no benefit from the same.

18. On the threshold of preponderance of probabilities, the case of the petitioner that the workman was contractually hired intermittently as and when required to transfer kerosene in his truck wins favour of this Court. In view of the aforesaid discussion, this Court considers it apposite to set aside the impugned award.

19. The present petition is accordingly allowed. Pending application also stands disposed of.

AMIT MAHAJAN, J

SEPTEMBER 8, 2026

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