



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% **Date of order: 13<sup>th</sup> May, 2024**  
+ W.P.(C) 11678/2023 & CM APPL. 45567/2023  
SUNIL PURI ..... Petitioner  
Through: Ms. Samyukta Dorman, Advocate.  
versus  
M/S. THAKKAR MANPOWER SERVICES PVT. LTD.  
..... Respondent  
Through: None.

**CORAM:**  
**HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**

**ORDER**

**CHANDRA DHARI SINGH, J (Oral)**

1. The instant petition under Articles 226 and 227 of the Constitution of India has been filed on behalf of the petitioner seeking setting aside of the impugned award dated 3<sup>rd</sup> January, 2023 passed by the learned ADJ, Presiding Officer, Labour Court-IV, Rouse Avenue Courts, New Delhi, in the case bearing LIR No. 88/2020.
2. The relevant facts of the instant petition are as under:
  - a. The petitioner workman was employed by the respondent management on 22<sup>nd</sup> July, 1997 at the post of 'Copy Operator' at last drawn monthly wage of Rs.17,250/-.
  - b. It is stated that on one occasion, the petitioner workman



demanded certain facilities such as appointment letter, leave, salary slip, travel expense etc. from the respondent management. Thereafter, the respondent management terminated the services of the petitioner workman on 23<sup>rd</sup> January, 2019.

- c. Subsequently, the petitioner sent a demand letter dated 20<sup>th</sup> April, 2015 claiming reinstatement and back wages and pursuant to the same, an industrial dispute was filed before the learned Labour Court vide case bearing LIR No. 88/2020.
- d. In the above said industrial dispute, the learned Labour Court passed the impugned award dated 3<sup>rd</sup> January, 2023, whereby, the petitioner's claim was dismissed.
- e. Being aggrieved by the same, the petitioner has approached this Court seeking quashing of the impugned award.

3. Learned counsel appearing on behalf of the petitioner submitted that the impugned award has been passed without taking into the account the entire facts and circumstances of the case and the same makes the impugned award liable to be set aside.

4. It is submitted that the learned Labour Court failed to appreciate that in their cross examination, the respondent management specifically admitted that the petitioner workman was working with the respondent and also admitted that subsequent appointment letter was not issued by them and that no domestic enquiry was conducted regarding the absence of the petitioner



from his job.

5. It is further submitted that the above mentioned admissions made by the respondent management in the cross examination clearly shows that it had violated the provisions of Section 25F of the Industrial Disputes Act, 1947 (hereinafter “ID Act”).

6. It is submitted that the learned Labour Court failed to appreciate that the amount paid through NEFT to the petitioner workman was not towards the retrenchment compensation and the petitioner never agreed to the same.

7. It is submitted that the learned Labour Court failed to appreciate that no retrenchment compensation has been given to the petitioner workman against his service which expanded for more than twenty years and the same is a violation of Section 25F of the ID Act.

8. It is submitted that the petitioner was illegally terminated by the respondent management vide order dated 23<sup>rd</sup> January, 2019 and he has received only Rs.4,83,563/- from the management, however, the petitioner is entitled for more amount as compensation.

9. It is submitted that the impugned award is bad in law as it was passed without considering the witnesses and evidence on the record and hence, is liable to be set aside.

10. Therefore, in view of the foregoing submissions, it is submitted that the instant petition may be allowed and the reliefs be granted as prayed for.

11. Heard learned counsel appearing on behalf of the petitioner and perused the material available on record.

12. This Court has perused the impugned award, wherein, the following



reference was made to be answered:-

*"Whether the services of workman Sh. Sunil Puri, S/o Sh. D. K. Puri have been terminated illegally and/or unjustifiably by the management; and if so, to what relief is he entitled and what directions are necessary in this respect?"*

13. The relevant extracts of the impugned award are as under:

*"....13. The statement of claim and the defence of the management has been mentioned the outset. The workman claimed that he joined the management on 22.07.1997 at the post of Copy Operator and his last drawn wages were Rs.17250/- per month. The workman claimed that his services were terminated by the management illegally and unjustifiably without paying his due wages whereas the management claimed that the workman left the services after receiving the full and final settlement amount of Rs.1,83,563/-. The management further claimed that the workman has already attained the age of superannuation.*

*It is reiterated that the workman examined himself as WWI and deposed regarding the claim. The witness has also proved the relevant documents as above said. The management admitted the employment of workman. The workman during cross-examination deposed as under:*

*\*\*\**

*The workman in his cross-examination admitted that he had received Rs.1,83,363/- from the management on 21.01.2019 through NEFT. The said admission of the workman corroborate the contentions of the management in the written statement that he has left the services after receiving his full and final dues.*

*I have also gone through the aadhar card Ex.WW1/6 placed on record by the workman 'showing his date of birth as 22.01.1961. The workman deposed regarding his age as 61 years. I have gone through the letter Ex.WW1/M1 dated 10.12.2018 alleged to have been written by the management to*



*the workman intimating him regarding attaining the age of superannuation. The workman though denied receiving the said letter but admitted during his cross-examination that he has shifted to F-34, Gali No.13, Mangal Bazar, Delhi from 121, Gopal Park, Krishna Nagar, Delhi in the year 2002 and he has not intimated to the management regarding change of his address. Since the letter Ex.WW1/MI bears the previous address of the workman and hence, letter dated 10.12.2018 is deemed to be served upon the workman and the contention of the management appears to have substance.*

*14. In the given facts and circumstances, on the basis of material placed and proved on record and in view of aforesaid discussions, it is held that the aforesaid claimant/workman had already attained the age of superannuation and he himself had left the job after receiving full and final settlement/dues from the management and that his service was never terminated by the management. Accordingly, Issues no.2 & 3 are decided in favour of management and against the workman/claimant whereas Issues No.4 & 5 are decided against the workman.*

**ISSUE NO.6:**

**Relief.**

*Consequent to the decision of Issues No.2 to 5, it is held that the workman/claimant is not entitled to any relief. Statement of claim is, therefore, dismissed.....”*

14. Upon perusal of the above, it is made out that the workman had filed the statement of claim stating that he had been under the employment of management since 22<sup>nd</sup> July, 1997 at the post of ‘Copy Operator’ and his last drawn wages were Rs. 17,250/- per month. It was contended that the workman demanded certain facilities as per his entitlement repeatedly and due to the said reason, the management got annoyed and terminated the



services of the workman on 21<sup>st</sup> January, 2019, without issuing any notice/charge sheet/memo and also, without paying him the due wages. Aggrieved therefrom, the petitioner workman issued a legal demand notice dated 23<sup>rd</sup> January, 2019 to the management requesting his reinstatement with back wages. The workman had also filed his statement of claim before the Conciliation Officer but none appeared on behalf of the management before the Conciliation Officer and, therefore, the reference was made.

15. Notice of the claim was issued to the management and the respondent management had filed the written statement to the statement of claim of workman contending that the management has already cleared all service benefits of workman and nothing remained due and pending. It was also contended in the written statement that no relationship of Master and Servant exists between the parties after the petitioner workman received the full and final amount from the management to the tune of Rs.1,83,563/- on 21<sup>st</sup> January, 2019 through NEFT No. 021190190799393 bearing Transaction No. RR07772101 19338908894 from Yes Bank, Janakpuri, New Delhi. Further, the management served the letter to the workman regarding retirement on attaining the age of superannuation on 21<sup>st</sup> January, 2019.

16. The workman appeared as a witness and in evidence, he filed his examination in chief by way of (affidavit Ex. WW1/A) wherein he had reiterated the contents of his statement of claim. Besides this, he had also placed on record the following documentary evidence:-

- (i) Ex.WW1/1: Complaint dated 1<sup>st</sup> February, 2019 made to Assistant Labour Commissioner against the management by the



workman.

(ii) Ex.WW1/2 to Ex.WW1/4: Demand notice dated 23<sup>rd</sup> January, 2019 issued to the management by the workman and its postal receipt.

(iii) Ex.WW1/5: Statement of claim filed by the workman before the Conciliation Officer.

(iv) Ex.WW1/6: Aadhar Card of the workman.

(v) Ex.WW1/7: Letter dated 22<sup>nd</sup> July, written by the management to the workman.

(vi) Ex.WW1/8: Copy of ESIC card.

(vii) Ex.WW1/9: Certificate regarding Training Programme of the workman.

17. The management had examined one Sh. Sandeep Thakkar as MW1 who filed his affidavit by way of evidence as Ex. MW1/A reiterating the factual contents of the written statement of management. Besides this, the management also filed certain documentary evidence which are as follows:

(i) Ex.MW1/1: Copy of transaction details.

(ii) Ex.MW1/2: Full and final account details.

(iii) Ex.MW1/3: Copy of retirement letter dated 21<sup>st</sup> January, 2019; and

(iv) Ex. MW1/4: Copy of certificate dated 21<sup>st</sup> January, 2019 issued to the workman by the management.

18. Learned Court below examined the witnesses and all the documentary evidence placed before it, and observed that the petitioner workman in his



cross examination had admitted that he has already received Rs.1,83,563/- from the respondent management on 21<sup>st</sup> January, 2019 through NEFT.

19. The workman had also admitted that he left his services after receiving his full and final dues. In this regard, it was held by the learned Court below that the said deposition of the petitioner workman in his cross examination is clear cut admission of the workman and corroborates the contentions of the management in the written statement.

20. After going through the cross examination of the petitioner workman as well as other documentary evidence on record, this Court is of the view that that the learned Labour Court has passed the impugned award after taking into consideration the entire facts and circumstances as well as the evidence on its record and has rightly reached to the conclusion that the petitioner has taken the entire money to which he is entitled to, as full and final settlement, and left his job himself after attaining the age of superannuation.

21. It is observed by this Court that the averments made by the petitioner that he was terminated illegally, in violation of Section 25F of the ID Act, and that he was not provided with the due compensation is baseless. The petitioner has failed to substantiate the same with the support of any evidence.

22. It is evident from the perusal of the records of the matter at hand that the petitioner workman had categorically admitted to the factum of having been received the amount of Rs.1,86,363/- as final settlement and all the facilities.





23. Therefore, taking into account the aforesaid admissions, this Court is of the view that there is no error which is apparent on the face of the record and the learned Labour Court has rightly adjudicated the issues raised before it.

24. As per the settled position of law *qua* the scope of intervention by a writ Court is limited and while exercising the same, the Courts have to be hyper vigilant. A writ is issued for correcting errors of jurisdiction committed by Courts below or Tribunals and such errors would mean where the orders passed by the Courts below or Tribunals are without jurisdiction, or is in excess of it, or as a result of failure to exercise such jurisdiction.

25. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court below 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 against the principles of natural justice. In any case, it has been held time and again in a catena of judgments by the Hon'ble Supreme Court as well as this Court that a writ Court cannot re-appreciate the evidence of proceedings of a lower Court.

26. Considering the above, this Court is of the view that the learned Court below took into account the entire facts and circumstances available on its record and after considering the same, it passed the impugned award. This Court is also of the view that the present case is merely a misuse of process of law.

27. Therefore, it is held that there is no merit in the contentions advanced



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by the petitioner and the same are rejected. Since the petitioners have been unable to make out a case to invite the interference of this Court under Article 226 of the Constitution of India, the instant petition being devoid of any merit is liable to be dismissed.

28. In view of the foregoing paragraphs, the impugned award dated 3<sup>rd</sup> January, 2023 passed by the learned ADJ, Presiding Officer, Labour Court-IV, Rouse Avenue Courts, New Delhi, in the case bearing LIR No. 88/2020, is hereby upheld.

29. Accordingly, the instant writ petition as well as pending applications, if any, stands dismissed.

**CHANDRA DHARI SINGH, J**

**MAY 13, 2024**

rk/ryp/av