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* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Reserved on: 5th May, 2026**Date of Decision: 29th July, 2026**Uploaded on: 29th July, 2026*+ W.P.(C) 18004/2004
AMARJIT SINGH

.....Petitioner

Through: Mr Ashok Gurnani and Mr. Mukul
Gupta, Advs.

versus

AIIMS & ANR.

.....Respondents

Through: Mr. V.S. R. Krishna and Mr. V.
Shashank Kumar, Advs.+ W.P.(C) 18551/2004
VED PRAKASH

.....Petitioner

Through: Mr Ashok Gurnani and Mr. Mukul
Gupta, Advs.

versus

A.I.I.M.S. & ANR.

.....Respondents

Through: Mr. V.S. R. Krishna and Mr. V.
Shashank Kumar, Advs.**CORAM:****HON'BLE MS. JUSTICE SHAIL JAIN****J U D G M E N T****SHAIL JAIN, J.**

1. These two connected Writ Petitions, filed under Articles 226 and 227 of the Constitution of India, namely **W.P.(C) No. 18004/2004, Amarjit Singh v. AIIMS &Anr.**, and **W.P.(C) No. 18551/2004, Ved Prakash v. AIIMS &Anr.**, assail two separate Awards, both dated 13.02.2004, passed by the learned Presiding Officer, Labor Court No. IV, Delhi (*hereinafter referred to as "the Tribunal"*) in Industrial Dispute No. 1371/1996 and Industrial Dispute No. 1190/1996,



respectively. Since both Writ Petitions arise out of substantially identical facts, involve common questions of fact and law, and challenge Awards passed by the same Tribunal against the same Management on the same date, they were taken up together for hearing and are being decided by this common judgment.

FACTUAL MATRIX

2. Amarjit Singh, the Petitioner in **W.P.(C) No. 18004/2004**, claims to have been engaged as a Tractor Driver in the Civil Engineering Department of the Respondent/Management, AIIMS, in November 1993. According to him, he continuously discharged his duties until his services were orally terminated on 21.06.1995 without notice, without assigning any reason and without payment of retrenchment compensation. Prior thereto, he had served a notice dated 09.06.1995 alleging that he was being made to work under different names, which was followed by a demand notice dated 03.07.1995. During the conciliation proceedings, the Respondent, by its reply dated 03.08.1995, stated that it maintained computerized records relating to the engagement of labor and that the same could be produced, if required. As the conciliation proceedings failed, the appropriate Government, by order dated 29.08.1996, referred the industrial dispute for adjudication to Labor Court No. IV, Delhi, where it was registered as I.D. No. 1371/1996. The Petitioner thereafter filed his Statement of Claim seeking reinstatement with continuity of service and full back wages, contending, inter alia, that he had completed more than 240 days of continuous service in the year preceding the termination of his



employment and that the termination was in violation of Sections 25-F and 25-G of the Industrial Disputes Act, 1947. The Respondent filed its Written Statement disputing the claim, while reiterating that it possessed computerized employment records. During the proceedings before the Labor Court, the Petitioner also served a notice dated 12.07.1999 requiring the Respondent to produce the attendance, wage and other employment records. The parties thereafter led evidence, culminating in the Award dated 13.02.2004.

3. The factual background in **W.P.(C) No. 18551/2004** is substantially similar. Ved Prakash claims to have been engaged as a daily-rated Lift Operator in the Engineering Services Department of the Respondent with effect from 01.07.1992 and that his services were orally terminated on 23.07.1995 without notice or retrenchment compensation. Following the failure of conciliation proceedings initiated upon his demand notice dated 30.09.1995, the appropriate Government referred the dispute for adjudication to Labor Court No. IV, Delhi, by order dated 13.08.1996, where it was registered as I.D. No. 1190/1996. He likewise sought reinstatement with continuity of service and full back wages on the ground that he had completed more than 240 days of continuous service and that the termination of his services was contrary to Sections 25-F and 25-G of the Industrial Disputes Act, 1947. The Respondent contested the claim, though admitting his engagement with effect from 01.07.1992. Ved Prakash also served a notice dated 12.07.1999 calling upon the Respondent to produce the relevant employment records. Evidence was thereafter led by both sides, culminating in the Award dated 13.02.2004.



SUBMISSIONS ON BEHALF OF THE PETITIONERS

4. The written submissions filed on behalf of the Petitioners Reads as under:

(i) It is submitted that the learned Labor Court erred in holding that the Petitioners had failed to establish completion of 240 days of continuous service. While the initial burden of proof rested upon the workman, it is contended that the Management, having admitted the fact and period of engagement of the Petitioners and being in exclusive possession of the relevant attendance and wage records, was required to produce the same once the Petitioners had deposed to continuous and uninterrupted service, and that the evidentiary burden thereafter shifted to the Management, which failed to discharge it.

(ii) It is further submitted that both Petitioners had served registered notices upon the Management calling for production of the attendance and wage records, which notices were neither complied with nor replied to. It is contended that the learned Labor Court erred in recording that the records had been destroyed, there being no such plea in either Written Statement and no evidence to that effect. Reliance is placed on the cross-examination of the Management witnesses to contend that the relevant attendance and wage records were admittedly available with the Management but were not produced.

(iii) It is further submitted that no suggestion was put to either Petitioner in cross-examination disputing completion of 240 days of continuous service, and that an adverse inference ought to have been drawn against the Management for withholding the best available



evidence. Reliance is placed on ***R.M. Yellatti v. Assistant Executive Engineer, (2006) 1 SCC 106.***

(iv) It is submitted that Issue No. 1 (whether the Petitioners were "workmen" under Section 2(s) of the Industrial Disputes Act) and Issue No. 2 (whether the Management is an "industry" under Section 2(j)) were both decided by the learned Labor Court against the Management and in favor of the workmen, and that the Petitioners' challenge is confined to the finding on Issue No. 3 alone. It is contended that these findings, having attained finality in the absence of any challenge by the Management, are not open to be reagitated in the present proceedings.

(v) On the question of maintainability, without prejudice to ground (iv) above, it is submitted that the issue of AIIMS being an "industry" within the meaning of Section 2(j) also stands concluded against the Respondent by the decision in ***AIIMS v. Raj Singh, 2009 (1) LLJ 499.*** Reliance is also placed on ***AIIMS v. Ghanshyam & Ors., 2014 (141) DRJ 201*** and ***Essen Deinki v. Rajiv Kumar, (2002) 8 SCC 400.***

(vi) On the question of relief, reliance is placed on ***Ajaypal Singh v. Haryana Warehousing Corporation, Civil Appeal No. 6327 of 2014,*** for the proposition that an employer resisting reinstatement cannot justify termination on the ground that the initial engagement was contrary to Articles 14 and 16 of the Constitution, the said decision having distinguished ***Secretary, State of Karnataka v. Umadevi, (2006) 4 SCC 1,*** in the context of retrenchment under the Industrial Disputes Act.

(vii) Insofar as W.P.(C) No.18004/2004 is concerned, it is submitted that the Respondent, in its Written Statement, expressly admitted that



Amarjit Singh had been engaged as a Tractor Driver on daily wages from November 1993 till 21.06.1995, and that cessation of his engagement was on account of expiry of the muster roll. It is further submitted that the Petitioner's work register, in which the duties assigned to and performed by him were required to be entered on a day-to-day basis, was likewise maintained in his own handwriting and duly countersigned by the concerned Junior Engineers under whom he worked during different periods, and that this material independently corroborates his claim of continuous engagement. It is contended that this material, being unrebutted, corroborates the Petitioner's case of continuous engagement independent of the Management's own records. It is further submitted that junior daily-wage employees were subsequently granted temporary status and regularized pursuant to directions issued by this Court, entitling the Petitioner to similar relief (viii) Insofar as **W.P.(C) No.18551/2004** is concerned, it is submitted that the Respondent similarly admitted that Ved Prakash had been engaged as a daily-wage Lift Operator with effect from 01.07.1992 and continued till 23.07.1995, disputing only the extent of service rendered without stating what that extent was as per its own record. It is contended that, in the absence of production of the relevant records, the learned Labor Court erred in rejecting the Petitioner's claim. (ix) On the aforesaid grounds, it is prayed that the impugned Awards dated 13.02.2004 be set aside and the Petitioners be granted reinstatement with continuity of service, full back wages and all consequential benefits.



SUBMISSIONS ON BEHALF OF THE RESPONDENT

5. The written submissions filed on behalf of the Respondent—Management reads as under:

(i) The impugned Awards are well-reasoned, founded upon a proper appreciation of the pleadings and evidence on record, and do not warrant interference in the exercise of writ jurisdiction under Articles 226 and 227 of the Constitution of India.

(ii) It is submitted that the Petitioners were engaged purely on a casual, daily-wage basis depending upon the exigencies of work and not against any sanctioned or permanent posts. Their engagement being intermittent and non-regular in nature, they cannot claim the status of regular workmen.

(iii) It is further submitted that the Petitioners failed to establish that they had rendered 240 days of continuous service within the meaning of Section 25B of the Industrial Disputes Act, 1947. Consequently, the conditions precedent for the applicability of Section 25F of the Act were not attracted.

(iv) According to the Respondent, the burden of proving completion of 240 days of continuous service rested entirely upon the Petitioners, which burden could not be discharged merely by filing self-serving affidavits in the absence of cogent documentary or independent oral evidence. In support of this submission, reliance has been placed upon ***Range Forest Officer v. S.T. Hadimani*, (2002) 3 SCC 25 ; *Essen Deinki v. Rajiv Kumar*, (2002) 8 SCC 400 ; *Municipal Corporation, Faridabad v. Siri Niwas*, Civil Appeal No. 1851 of 2002 ; *M.P. Electricity Board v. Jagdish Chandra Sharma*, (2005) 3 SCC 401 ;**



Manager, RBI, Bangalore v. S. Mani, Civil Appeal Nos. 6306–6316 of 2003 ; and Union of India v. Ibrahim Uddin, (2012) 8 SCC 148.

(v) The contention of the Petitioners that an adverse inference ought to be drawn against the Respondent for non-production of attendance and wage records is disputed. It is submitted that no such inference could be drawn, particularly when the Petitioners neither obtained any direction from the learned Tribunal for production of the records nor invoked the procedure prescribed in law for compelling their production. It is further submitted that the relevant records had been destroyed in the ordinary course and were, therefore, unavailable.

(vi) It is also submitted that AIIMS, being an institution of national importance established under the All India Institute of Medical Sciences Act, 1956 and primarily engaged in medical education, research and patient care, does not fall within the ambit of the expression "*industry*" as contemplated under the Industrial Disputes Act, 1947. It is further submitted that the industrial references were not maintainable, as they had not been made by the appropriate Government.

(vii) Without prejudice to the aforesaid submissions, it is contended that the Petitioners failed to establish that they remained unemployed after the cessation of their engagement and, therefore, are not entitled to the relief of reinstatement or back wages.

(viii) On the aforesaid grounds, it is prayed that both the Writ Petitions be dismissed.

ISSUE FOR CONSIDERATION

6. Having considered the pleadings, the evidence on record and the



rival submissions advanced by learned counsel for the parties, the principal issue that arises for consideration is **whether the impugned Awards dated 13.02.2004 call for interference by this Court in the exercise of its jurisdiction under Articles 226 and 227 of the Constitution of India.**

ANALYSIS

7. Before examining the issues arising in the present petition, it is necessary to delineate the limited scope of this Court's jurisdiction under Articles 226 and 227 of the Constitution while exercising judicial review over an award of the Labor Court. The jurisdiction exercised by this Court is supervisory and not appellate. Consequently, this Court does not re-appreciate the evidence or substitute its own conclusions on questions of fact merely because another view is possible. Interference is warranted only where the impugned award suffers from patent illegality, perversity, jurisdictional error, violation of the principles of natural justice, is based on no evidence, ignores material evidence having a direct bearing on the controversy, proceeds on a factual premise unsupported by the record, or applies a legal standard contrary to the settled position of law. In such cases, the Court does not act as a court of appeal but intervenes to correct findings that are rendered legally unsustainable by reason of perversity, manifest misappreciation of the evidence, or application of an erroneous legal standard. These well-settled principles, authoritatively explained by the Supreme Court in *Syed Yakoob v. K.S. Radhakrishnan*, AIR 1964 SC 477, define the parameters within which the present challenge to the



impugned Award falls to be examined. The enquiry before this Court, therefore, is not whether a different conclusion could have been reached on the same evidence, but whether the findings recorded by the Labor Court withstand scrutiny within the settled parameters governing judicial review.

8. By two separate Awards, both dated 13.02.2004, the learned Presiding Officer, Labor Court No. IV, Delhi, answered the industrial references in I.D. No. 1371/1996 (impugned in **W.P.(C) No. 18004/2004**, Amarjit Singh v. AIIMS &Anr.) and I.D. No. 1190/1996 (impugned in **W.P.(C) No. 18551/2004**, Ved Prakash v. AIIMS &Anr.) against the Petitioners. The operative portion of both impugned Awards is materially identical and reads as under:

"In view of the findings of the above it is held that the termination of workman was not illegal and/or unjustified and he is not entitled to be reinstated with full back wages and continuity of service. Award is passed in the above mentioned terms. Reference is answered accordingly."

9. The Labor Court framed four issues for determination in each of the industrial references, namely: (i) whether the Petitioners were "workmen" within the meaning of Section 2(s) of the Industrial Disputes Act, 1947; (ii) whether the Respondent-Management constituted an "industry" within the meaning of Section 2(j); (iii) whether the termination of the Petitioners' services was illegal or unjustified; and (iv) the consequential relief, if any, to which they were entitled. The Labor Court answered the first two issues in favor of the Petitioners. The **existence of an employer-workman relationship** was



never seriously in dispute, the Respondent having expressly admitted in its written statements that the Petitioners had been engaged on daily wages for the periods pleaded by them. Consequently, the finding on **Issue No. 1 does not require any further consideration.** Although Issue No. 2 is not the principal issue in the present proceedings, it is appropriate to briefly examine the correctness of the Labor Court's conclusion in that regard before turning to the principal issue concerning completion of 240 days of continuous service.

10. As regards Issue No. 2, the Labor Court held that AIIMS constituted an "industry" within the meaning of Section 2(j) of the Industrial Disputes Act, 1947 by applying the law laid down by the Supreme Court in **Bangalore Water Supply & Sewerage Board v. A. Rajappa**, (1978) 2 SCC 213. Although the correctness of **Bangalore Water Supply (supra)** has been referred for reconsideration before a larger Bench of the Supreme Court in **State of U.P. v. Jai Bir Singh**, (2005) 5 SCC 1, a mere reference for reconsideration does not detract from its binding force. Unless and until the law declared therein is reconsidered, modified or overruled by the Supreme Court, it continues to constitute binding precedent under Article 141 of the Constitution. This position was reiterated by a Division Bench of this Court in **All India Institute of Medical Sciences v. Raj Singh**, 2009 (1) LLJ 499 which, while dealing with AIIMS itself, held that **Bangalore Water Supply (supra)** continued to govern the field notwithstanding the reference in **Jai Bir Singh (supra)**. No subsequent decision of the Supreme Court or this Court taking a contrary view has been brought to the notice of this Court. The finding returned by the Labor Court on



Issue No. 2, therefore, warrants no interference.

11. The issue in the present petitions thus narrows to a single question, namely, **whether the Petitioners established completion of 240 days of continuous service** within the meaning of Section 25-B of the Industrial Disputes Act, 1947. The correctness of the impugned Awards must, therefore, be examined solely with reference to the Labor Court's appreciation of the evidence and its application of the settled legal principles governing proof of that statutory requirement.

12. Before considering the authorities governing proof of completion of 240 days of continuous service, it is apposite to notice the distinction between the burden of proof and the evidentiary onus. Though closely related, the two concepts operate in different spheres of the law of evidence. The legal burden of establishing completion of 240 days of continuous service rests throughout upon the workman who invokes the protection of Section 25-F of the Industrial Disputes Act, 1947, and remains unchanged during the course of the proceedings. The evidentiary onus, however, is not static. Where the workman lays the foundational factual basis of the claim by leading cogent evidence and specifically calls upon the employer to produce the relevant employment records lying within its exclusive custody, the evidentiary onus shifts to the employer to meet the case so established by producing the best evidence available to it. Whether the workman has ultimately discharged the legal burden resting upon him is, however, to be determined upon an overall appreciation of the entire evidence led by both parties.

13. The application of these principles assumes particular



significance in cases involving daily-rated or casual workmen, for the primary employment records, such as muster rolls, attendance registers and wage registers, are ordinarily maintained by the employer and remain beyond the workman's possession or control. It is in this context that the Supreme Court, in **R.M. Yellatti v. Assistant Executive Engineer**, (2006) 1 SCC 106, while examining its earlier decisions including **Manager, Reserve Bank of India v. S. Mani**, (2005) 5 SCC 100 and **Municipal Corporation, Faridabad v. Siri Niwas**, (2004) 8 SCC 195, comprehensively explained the principles governing proof of completion of 240 days of continuous service and the manner in which the evidence led by the parties is required to be appreciated. The relevant observations read as under:

*“Now coming to the question of burden of proof as to the completion of 240 days of continuous work in a year, the law is well settled. In the case of **Manager, Reserve Bank of India, Bangalore v. S. Mani** reported in (2005) 5 SCC 100, the workmen raised a contention of rendering continuous service between April, 1980 to December, 1982 in their pleadings and in their representations. They merely contended in their affidavits that they had worked for 240 days. The tribunal based its decision on the management not producing attendance register. In view of the affidavits filed by the workmen, the tribunal held that the burden on the workmen to prove 240 days service stood discharged. In that matter, a three-judge bench of this court held that pleadings did not constitute a substitute for proof and that the affidavits contained self-serving statements; that no workman took an oath to state that they had worked for 240 days; that no document in support of the said plea was ever produced and, therefore, this court took the view that the workmen had failed to discharge the burden on them of proving that they had worked for 240 days. According to the said judgment, only by reason of non-response to the*



complaints filed by the workmen, it cannot be said that the workmen had proved that they had worked for 240 days. In that case, the workmen had not called upon the management to produce relevant documents. The court observed that the initial burden of establishing the factum of continuous work for 240 days in a year was on the workmen. In the circumstances, this court set aside the award of the industrial tribunal ordering reinstatement.

“In the case of Municipal Corporation, Faridabad v. Siri Niwas reported in (2004) 8 SCC 195, the employee had worked from 5.8.1994 to 31.12.1994 as a tube-well operator. He alleged that he had further worked from 1.1.1995 to 16.5.1995. His services were terminated on 17.5.1995 whereupon an industrial dispute was raised. The case of the employee before the tribunal was that he had completed working for 240 days in a year; the purported order of retrenchment was illegal as the conditions precedent to section 25-F of Industrial Dispute Act were not complied with. On the other hand, the management contended that the employee had worked for 136 days during the preceding 12 months on daily wages. Upon considering all the material placed on record by the parties to the dispute, the tribunal came to the conclusion that the total number of working days put in by the employee were 184 days and thus he, having not completed 240 days of working in a year, was not entitled to any relief. The tribunal noticed that neither the management nor the workman cared to produce the muster roll w.e.f. August, 1994; that the employee did not summon muster roll although the management had failed to produce them. Aggrieved by the decision of the tribunal, the employee filed a writ petition before the High Court which took the view that since the management did not produce the relevant documents before the industrial tribunal, an adverse inference should be drawn against it as it was in possession of best evidence and thus, it was not necessary for the employee to call upon the management to do so. The High Court observed that the burden of proof may not be on the management but in case of non-production of documents, an adverse inference could be drawn against the



management. Only on that basis, the writ petition was allowed holding that the employee had worked for 240 days. Overruling the decision of the High Court, this court found on facts of that case that the employee had not adduced any evidence before the court in support of his contention of having complied with the requirement of section 25-B of Industrial Disputes Act.

14. The aforesaid observations explain the manner in which the legal burden resting upon the workman is required to be discharged in industrial adjudication. The burden is not discharged by mere pleadings or self-serving assertions unsupported by cogent evidence. Equally, the law does not require the workman to produce employment records which ordinarily remain in the exclusive custody of the employer. What is required is that the workman lays the foundational factual basis of the claim by leading cogent evidence and by taking reasonable steps to secure production of the relevant employment records maintained by the employer. Once that foundation is laid, the Court must determine, upon a holistic appreciation of the evidence adduced by both parties, whether the burden has been discharged. The enquiry is, therefore, essentially evidentiary rather than merely formal. The evidence must be evaluated in its entirety, and no single circumstance can be viewed in isolation or divorced from the overall factual matrix. It is in the light of these settled principles that the evidence in the present case falls to be examined.

15. The aforesaid principles also harmonize the earlier decisions in ***Range Forest Officer v. S.T. Hadimani(supra)*** and ***Manager, Reserve Bank of India v. S. Mani (supra)***. Those decisions do not hold that completion of 240 days of continuous service can be established only



through documentary evidence. They reiterate that the legal burden resting upon the workman cannot be discharged by bare pleadings or self-serving assertions unsupported by cogent evidence. The subsequent decision in ***R.M. Yellatti (supra)*** explains the manner in which that burden falls to be discharged in industrial adjudication and the evidentiary significance of the employer's failure to produce the relevant employment records after being called upon to do so.

16. The legal principles enunciated in ***R.M. Yellatti (supra)*** were subsequently reaffirmed and applied by the Supreme Court in ***Director, Fisheries Terminal Division v. BhikubhaiMeghajibhaiChavda***, (2010) 1 SCC 47, wherein the Court reiterated that the evidentiary significance of the employer's failure to produce the relevant employment records arises only after the workman has discharged the initial burden by leading cogent evidence.

17. The aforesaid principles must also be read in conjunction with **Section 114 Illustration (g) of the Indian Evidence Act, 1872**, which empowers the Court, in an appropriate case, to draw an **adverse inference** against a party withholding material evidence within its possession. Such an inference rests on the principle that the withheld evidence, if produced, would not have supported the case of the party withholding it. It is equally well settled that an adverse inference does not, by itself, relieve the workman of the legal burden resting upon him. It assumes significance only where the workman has first laid the foundational factual basis of the claim by leading cogent evidence and has called upon the employer to produce the relevant employment records lying within the employer's exclusive custody. In that



evidentiary setting, the employer's failure to produce the best available evidence may legitimately justify the drawing of an adverse inference while appreciating the record as a whole. Such an inference operates only as an evidentiary aid and cannot, by itself, supply proof where none otherwise exists.

18. The question that now falls for consideration is whether, upon an overall appreciation of the pleadings, the oral and documentary evidence on record, and the Respondent's conduct in relation to the employment records admittedly maintained in its exclusive custody, the Labor Court correctly applied the principles explained by the Supreme Court in ***R.M. Yellatti v. Assistant Executive Engineer (supra)*** while determining whether the Petitioners had established completion of 240 days of continuous service within the meaning of Section 25-B of the Industrial Disputes Act, 1947. The enquiry before this Court is not whether the Petitioners produced documentary evidence which admittedly remained in the exclusive custody of the Respondent, but whether the evidentiary record, viewed as a whole, justified the Labor Court's conclusion on the issue of continuous service.

19. The Petitioners did not rest their claim upon bare pleadings. In their respective Statements of Claim, they specifically pleaded the nature of their engagement, the period during which they continuously worked under the Respondent, the completion of more than 240 days of continuous service, and the circumstances in which their services came to be terminated. Each Petitioner thereafter entered the witness box, filed an affidavit by way of evidence affirming those facts on oath, and subjected himself to cross-examination. During cross-examination,



suggestions were put on behalf of the Respondent that the Petitioners were engaged only as and when work was available, that the work assigned to them was of a casual nature, and that they had not worked continuously during their tenure. The Petitioners categorically denied those suggestions. No material contradiction or admission was brought out in cross-examination capable of discrediting their testimony or undermining the factual foundation of their claim. The Petitioners further identified the attendance registers, muster rolls, wage registers and other employment records maintained by the Respondent as the primary records bearing upon the exact period of their engagement and, by serving notices under Order XII Rule 8 of the Code of Civil Procedure, 1908, called upon the Respondent to produce those records before the Labor Court. The receipt of the said notices was never disputed. The records remained exclusively within the custody and control of the Respondent and were beyond the possession of the Petitioners. The Petitioners thus laid the foundational factual basis of their respective claims in the manner contemplated by the principles explained in *R.M. Yellatti (supra)*.

20. The **evidentiary onus thereafter shifted to the Respondent to rebut** the Petitioners' *prima facie* case by producing the best available evidence in its possession. Such shifting of evidentiary onus did not relieve the Petitioners of the legal burden of establishing completion of 240 days of continuous service, which remained upon them throughout. It merely required the Respondent, being the admitted custodian of the relevant employment records, to place before the Labor Court those records or other cogent evidence capable of rebutting the Petitioners'



case and substantiating its own plea regarding the actual period of service and the alleged breaks therein.

21. In **W.P.(C) No. 18004/2004**, the Respondent admitted that Amarjit Singh had been engaged as a daily-rated Tractor Driver from November, 1993 till 21.06.1995. Likewise, in **W.P.(C) No. 18551/2004**, it admitted that Ved Prakash had been engaged as a daily-rated Lift Operator from 01.07.1992 till 23.07.1995. The existence of the employer-workman relationship, the nature of the engagement and the relevant period of engagement thus remained undisputed. The controversy was confined to the Respondent's plea that neither Petitioner had completed 240 days of continuous service and that their engagement, being purely on daily wages, was subject to intermittent breaks depending upon administrative requirements. Significantly, neither the written statements nor the evidence led in support thereof disclosed the dates, duration or frequency of the alleged breaks. No computation of the actual number of days worked by either Petitioner was furnished, nor were the attendance registers, muster rolls, wage registers or any other contemporaneous employment records, admittedly maintained by the Respondent, produced in support of that plea.

22. The oral evidence led on behalf of the Respondent likewise failed to remedy that deficiency. In the industrial reference concerning Amarjit Singh, the Respondent examined Sh. Ashok Kumar Verma (*MW-1*), while, in the industrial reference concerning Ved Prakash, it examined Sh. V.K. Garg (*MW-1*). Both witnesses stated that their affidavits had been prepared on the basis of the employment records



maintained by the Respondent. At the same time, both admitted that those records had not been produced before the Labor Court. More importantly, neither witness was able to disclose the factual basis upon which the assertion that the concerned Petitioner had not completed 240 days of continuous service had been made. Sh. Ashok Kumar Verma expressly admitted that he was unable to state the factual basis for the Respondent's assertion that Amarjit Singh had not completed 240 days of continuous service. Sh. V.K. Garg was likewise unable to explain the basis of the corresponding assertion contained in his affidavit and further admitted that the Respondent did not maintain any seniority list of its daily-rated workmen.

23. Nor did the cross-examination of the Petitioners furnish any material support to the Respondent's defense. Although it was suggested to the Petitioners that they had not worked continuously, had been engaged only as and when required, and that the work assigned to them was merely casual in nature, those suggestions were categorically denied. Apart from putting such suggestions, the Respondent neither produced the contemporaneous employment records admittedly maintained by it nor examined any witness capable of establishing, either from personal knowledge or by reference to the records maintained by the Respondent, the factual basis of its plea that the Petitioners had not completed 240 days of continuous service. The Respondent's defense thus remained unsupported by the very records which it asserted to be available and upon which its own witnesses claimed to have based their affidavits.

24. The impugned Awards, however, do not disclose an appreciation



of the evidence consistent with the aforesaid principles. Decisive weight was attached to the absence of documentary evidence produced by the Petitioners without examining the evidentiary consequences flowing from the Respondent's admitted custody of the primary employment records, the specific notices requiring their production, the Respondent's unexplained failure to produce those records, and the inability of its own witnesses to substantiate the factual basis of the defense. The error was compounded by the finding that the employment records had been destroyed, although no such plea was raised, no witness deposed to their destruction and no contemporaneous record was produced in support thereof. On the contrary, the Respondent's own witnesses admitted that their affidavits had been prepared on the basis of those very records while simultaneously acknowledging that the records themselves had not been produced before the Labor Court. The finding regarding destruction of the records is, therefore, unsupported by either the pleadings or the evidence on record.

25. Ordinarily, this Court would not interfere with findings of fact merely because another view is possible. However, where such findings proceed upon an erroneous application of settled legal principles, overlook material evidence and rest upon factual assumptions unsupported by the record, they cease to command the deference ordinarily accorded in the exercise of writ jurisdiction.

26. On such an examination, this **Court is unable to sustain the finding returned by the Labor Court.** The Respondent, despite being the admitted custodian of the contemporaneous employment records,



neither produced those records nor led any cogent evidence substantiating its plea regarding the alleged breaks in service. Its witnesses were themselves unable to disclose the factual basis of that plea. In these circumstances, the **Respondent failed to rebut the Petitioners' case, and its unexplained withholding of the best evidence available in its possession assumes due evidentiary significance while appreciating the record as a whole.**

27. Applying the principles laid down in *R.M. Yellatti (supra)* and *Director, Fisheries Terminal Division v. BhikubhaiMeghajibhaiChavda (supra)*, this Court is satisfied that the Petitioners established completion of 240 days of continuous service. That conclusion emerges from a cumulative appreciation of the entire evidentiary record, including the Respondent's admissions regarding the Petitioners' engagement, the oral evidence led by the Petitioners, the specific notices requiring production of the primary employment records, the Respondent's admitted custody and unexplained withholding of those records, the inability of its witnesses to substantiate the factual basis of the defense, and the complete absence of any contemporaneous record supporting the alleged breaks in service. The finding returned by the Labor Court on the issue of completion of 240 days of continuous service, having proceeded upon an erroneous application of the governing legal principles and an unsustainable appreciation of the evidence, cannot be sustained and is accordingly **set aside**.

28. The aforesaid conclusion necessarily attracts the protection of Section 25-F of the Industrial Disputes Act, 1947. Having held that the



Petitioners had completed the requisite period of continuous service, the Respondent could not have terminated their services except in strict compliance with the mandatory requirements thereof. The Respondent has neither pleaded nor established that the cessation of the Petitioners' engagement falls within any of the statutory exceptions contained in Section 2(oo) of the Act, including clause (bb). Nor has it pleaded or proved compliance with Section 25-F by serving the requisite notice, paying wages in lieu thereof or tendering retrenchment compensation. Throughout the proceedings, the Respondent defended the termination solely on the footing that the Petitioners had not completed 240 days of continuous service. That defense having failed, the retrenchment cannot be sustained in law. The finding of the Labor Court upholding the legality of the Petitioners' termination is, accordingly, set aside.

29. The only question that now survives concerns the nature of the consequential relief. It is by now well settled that a finding of illegal retrenchment does not invariably entail reinstatement with continuity of service and full back wages. The relief must be molded having regard to the facts and circumstances of each case, including the nature of the engagement, the lapse of time since retrenchment and the overall equities involved.

30. The evolution of the law in this regard is reflected in *Jagbir Singh v. Haryana State Agriculture Marketing Board*, (2009) 15 SCC 327; *Assistant Engineer, Rajasthan Development Corporation v. Gitam Singh*, (2013) 5 SCC 136; and *Bharat Sanchar Nigam Limited v. Bhurumal*, (2014) 7 SCC 177. These decisions recognize that, particularly in the case of daily-rated, casual or temporary workmen,



reinstatement is no longer the ordinary consequence of every illegal retrenchment and that the relief must be molded to balance the statutory rights of the workman with the practical realities prevailing at the time of adjudication.

31. Applying the aforesaid principles, this Court is of the considered view that the ends of justice would be adequately served by awarding lump-sum monetary compensation in lieu of reinstatement, continuity of service and back wages. In reaching this conclusion, the Court has taken into account the nature and duration of the Petitioners' engagement as daily-rated workmen, the illegality of the retrenchment as found herein upon a cumulative appreciation of the evidentiary record, including the Respondent's unexplained withholding of the primary employment records, the fact that the Petitioners' services were terminated in 1995, the lapse of more than three decades thereafter, much of which elapsed during industrial adjudication and these writ proceedings without any fault attributable to the Petitioners, the consequent impracticability of directing reinstatement after such an extraordinary passage of time, and the principles governing the award of compensation laid down in the aforesaid decisions of the Supreme Court. While no inflexible formula governs the quantification of compensation in cases of this nature, having regard to the totality of the circumstances, this Court considers it just and appropriate to award each of the Petitioners a lump-sum compensation of **₹3,00,000/-** in full and final settlement of all claims arising out of the illegal retrenchment of their services.

32. Accordingly, the **impugned Awards dated 13.02.2004 passed**



by the learned Presiding Officer, Labor Court-IV, Delhi in I.D. No. 1371/1996 and I.D. No. 1190/1996 are set aside. In substitution thereof, the Respondent is directed to pay each Petitioner a lump-sum compensation of ₹3,00,000/- each within eight weeks from the date of this judgment, failing which the workmen shall be entitled to interest at the rate of 9% per annum on the abovementioned amount with effect from the date of default.

33. The Petitioners have also sought regularization of their services. However, no industrial dispute concerning regularization was referred for adjudication, nor was any issue framed by the Labor Court in that regard. The scope of the present writ petitions is confined to the legality of the impugned Awards arising out of the reference actually made. In any event, having regard to the nature of the Petitioners' engagement and the settled principles governing regularization, no direction for regularization can be issued in the exercise of the present jurisdiction. The said relief is, accordingly, declined.

34. The writ petitions are allowed in the aforesaid terms. Pending applications, if any, also stand disposed of. There shall be no order as to costs.

SHAIL JAIN
JUDGE

JULY 29, 2026
RM