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

% Reserved on : 14.08.2026
Pronounced on : 13.11.2026
Uploaded on : 14.11.2026

**# CNR No. DLHC010428662023**

**+ W.P.(C) 16476/2022 and CM APPL. 51729/2022**

M/S J. J. ELECTRONICS .....Petitioner
Through: Ms. Renu, Mr. Kamlesh Kumar Mishra, Mr. Piyush, and Ms. Mansi, Advocates

versus

SMT. ROSAMMA JOY .....Respondent
Through: Mr. Aarlin Moncy and Ms. Sruti Mehrotra, Advocates

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

**JUDGMENT**

1. By way of the present petition filed under Article 226 of the Constitution of India, the petitioner/management has assailed the award passed by the learned Presiding Officer, Labour Court-IX, Rouse Avenue Courts Complex, New Delhi, in LID No. 78/2018.

*Vide* the impugned award, the respondent/workwoman was held to have been illegally retrenched and awarded full back wages from 20.05.2017 till 20.05.2018 along with consequential benefits.

2. Briefly stated, the workwoman claimed before the Labour Court that she had been working with the management on the post of

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'Finishing Man' since 01.12.1981, and her last drawn wages were Rs.10,500/- per month. She alleged that on 03.03.2017, the Government of NCT of Delhi increased the minimum wages for skilled workers, but when she demanded the increased wages, the management refused to pay them and became annoyed with her. She further alleged that on 20.05.2017, when she demanded her earned wages for April 2017, the management terminated her services in violation of Sections 25F and 25G of the Industrial Disputes Act, 1947 (hereinafter the "ID Act"). The workwoman first raised a dispute before the Labour Department and, upon failure of conciliation, filed her statement of claim directly before the Labour Court under Section 2A(2) of the ID Act, seeking reinstatement with full back wages.

3. The management contested the claim by stating that the workwoman had attained the age of 58 years on 20.05.2017, which was the age of retirement as per the prevalent practice in its factory. It was submitted that the workwoman's date of birth was 20.05.1959, as mentioned in her *Aadhaar* card, which she herself had submitted to the management. It was averred that she had misrepresented herself to be aged about 57 years in her statement of claim. It was further submitted that after her cataract surgery in April 2017, the workwoman was not able to perform her job and had expressed her inability to continue. The management maintained that she had herself resigned, that it had accepted her voluntary retirement as per her own wishes, and that she had taken all her dues. It was also submitted that she was a semi-skilled worker who had been paid the applicable minimum wages, and

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that Sections 25F and 25G of the ID Act did not apply, as the management had fewer than 10 employees and the workwoman had voluntarily retired.

4. In the aforesaid backdrop, the following issues were framed by the Labour Court:

> "*(1) Whether the services of Claimant had come to an end after attaining her age of superannuation? O.P.M*
> *(2) Whether the services of Claimant have been terminated illegally and/ or unjustifiably by the management? O.PW.*
> *(3) If the answer to the above mentioned issue no. 2 is in affirmative, then as to what consequential relief is the Claimant entitled to? O.P.W.*
> *(4) Relief.*"

5. The Labour Court decided issue no. 1 against the management. It noted that the management had received the *Aadhaar* card of the workwoman (Ex. WW-1/7), showing her date of birth as 20.05.1959, only in March 2017. On the other hand, the management itself had furnished her date of birth as 20.05.1960 to the Employees' State Insurance Corporation (hereinafter "ESIC") at the time of her registration on 26.06.2010. As the management did not produce the record on the basis of which it had made this entry, the Labour Court drew an adverse inference against it, holding that a party cannot keep back the best evidence in its possession. The Labour Court further held that, in the absence of any witness from the Unique Identification Authority of India (hereinafter the "UIDAI") to prove the basis of the date of birth recorded in Ex. WW-1/7, the said document could not be relied upon. Accordingly, it discarded Ex. WW-1/7 and held the workwoman's date of birth to be 20.05.1960. *Qua* issue no. 2, the

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Labour Court held that the management had failed to prove resignation, voluntary retirement, or any medical incapacity of the workwoman, and that her services had been illegally and unjustifiably terminated. It also held that the management had failed to prove that it paid her the revised minimum wages of Rs.14,698/- per month applicable to a semi-skilled worker from 03.03.2017. As for relief under issue nos. 3 & 4, holding the case to be one of illegal retrenchment in violation of Section 25F of the ID Act, the Labour Court awarded the workwoman full back wages @ Rs.14,698/- per month from 20.05.2017 till 20.05.2018, the date on which she would have retired, along with consequential benefits, and interest @ 6% per annum from the date of publication of the award till realisation.

6. Aggrieved by the said award, the management has preferred the present writ petition.

7. Before this Court, learned counsel for the petitioner/management contends that the workwoman had herself relied upon the *Aadhaar* card exhibited as Ex. WW-1/7, as per which she attained the age of 58 years on 20.05.2017. It is contended that her services, thus, came to an end upon superannuation, and the same does not amount to retrenchment. It is further contended that the Labour Court erred in casting upon the management the burden to prove an admitted document.

8. *Per contra*, learned counsel for the respondent/workwoman supports the impugned award and submits that the burden to prove the workwoman's superannuation lay upon the management, and the

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management had itself recorded her date of birth as 20.05.1960 with the ESIC in 2010, well before the dispute in question arose. It is further submitted that an *Aadhaar* card cannot be relied upon as conclusive proof of date of birth and reliance in this regard is placed upon the decision of the Supreme Court in *Saroj & Ors. Vs. Iffco-Tokio General Insurance Co. & Ors.*[1] as well as decisions of this Court in *Mahender Yadav Vs. South Delhi Municipal Corporation & Anr.*[2] and *K. Murugan Vs. Delhi Building and Other Construction Workers Welfare Board & Anr.*[3]. Learned counsel has also handed over copies of the Office Memorandum dated 20.12.2018 and the letter dated 23.04.2024 issued by the UIDAI, to submit that the date of birth in an *Aadhaar* card is recorded on the basis of the declaration of the card holder, and the card is not, by itself, proof of date of birth. The said documents are taken on record.

9. I have heard the learned counsels for the parties and carefully perused the record.

10. Before proceeding further, it is apposite to take note of the limited scope of writ jurisdiction in exercise of powers conferred under Articles 226/227 of the Constitution of India. It is well settled that the challenge is not in the nature of an appeal, but to see if the order has been passed without jurisdiction, is perverse, or does not follow the principles of natural justice (Ref: *Syed Yakoob Vs. K.S.*

[1] 2024 SCC OnLine SC 3038
[2] 2026 SCC OnLine Del 2176
[3] 2023 SCC OnLine Del 2149

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*Radhakrishnan*[4]). The said principle was reiterated by the Supreme Court in *International Airport Authority of India Vs. International Air Cargo Workers Union*[5]. A Coordinate Bench of this Court has also considered the scope of writ jurisdiction in *Ritz Theatre Private Limited Vs. Ramesh Chandra*[6].

11. It is not in dispute that the age of superannuation in the establishment of the management was 58 years. Under Section 2(oo)(b) of the ID Act, the retirement of a workman on reaching the age of superannuation, where the contract of employment contains a stipulation to that effect, does not amount to retrenchment. Therefore, the controversy turns on the date of birth of the workwoman. Simply put, if she was born on 20.05.1959, she was to retire on 20.05.2017, and Section 25F of the ID Act would not be attracted. However, if she was born on 20.05.1960, the termination of her services on 20.05.2017 would amount to retrenchment, which, without compliance with Section 25F of the ID Act, would be illegal.

12. A perusal of the record reveals that it was the management that set up the plea of superannuation, and issue no. 1 was framed with the onus on the management. Thus, the burden was on the management to prove that the workwoman was born on 20.05.1959. To discharge this burden, the management relied only upon Ex. WW-1/7, and did not place on record any other document showing the date of birth of the workwoman. The Labour Court also noted that the management did

[4] 1963 SCC OnLine SC 24
[5] (2009) 13 SCC 374
[6] 2024 SCC OnLine Del 3633

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not examine any witness from UIDAI to prove the basis of the date of birth recorded in Ex. WW-1/7.

13. The case of the management, thus, rests solely upon Ex. WW-1/7. However, an *Aadhaar* card is not, by itself, proof of date of birth. The Office Memorandum dated 20.12.2018 issued by UIDAI, which has been placed on record by the workwoman, clarifies the said position. It records that UIDAI enters the date of birth on the basis of the documents or the self-declaration furnished by the card holder. It further records that the *Aadhaar* Act, 2016 recognises an *Aadhaar* number as proof of identity, but does not mention that it can be accepted as proof of date of birth. The Supreme Court took note of the very same Office Memorandum in *Saroj* (*supra*) and held as under:

> "*9.6 We find that the Unique Identification Authority of India, by way of its Circular No. 08 of 2023, has stated, in reference to an Office Memorandum issued by the Ministry of Electronics and Information Technology dated 20th December 2018, that an Aadhar Card, while can be used to establish identity, it is not per se proof of date of birth. …*
>
> *…*
>
> *10. That being the position, as it stands with respect to the determination of age, we have no hesitation in accepting the contention of the claimant-appellants, based on the School Leaving Certificate. Thus, we find no error in the learned MACT's determination of age based on the School Leaving Certificate.*"

14. A Coordinate Bench of this Court, in *Mahender Yadav* (*supra*), took note of the decision in *Saroj* (*supra*) and held that where the material on record regarding age is conflicting, the Court must assess the relative value of each available document:

> "*11. The Supreme Court in Saroj v. IFFCO-Tokio General Insurance Co. Ltd., 2024 INSC 816, taking note of Circular No.*

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> *08/2023 dated 22-12-2023 issued by Unique Identification Authority of India ["UIDAI"], has categorically observed that Aadhaar is primarily proof of identity and not per se proof of date of birth, and that determination of age must rest on documentary material having greater evidentiary value. The Court accordingly accorded primacy to the School Leaving Certificate and upheld the determination of age on that basis. Said principle underscores that where conflicting material regarding age is placed on record, the Court is required to assess the relative evidentiary value of the documents and rely upon the material which inspires greater confidence. ...*"

15. In *K. Murugan* (*supra*), the Delhi Building and Other Construction Workers Welfare Board had rejected the pension application of a construction worker on the basis of the date of birth recorded in his *Aadhaar* card, while the registration card issued by the Board itself showed a different age. This Court held that the Board ought to have gone by its own record:

> "*21. In terms of this Rule, the Petitioner would have submitted the relevant documents at the time of registration. When the Board issues the Registration Card, it ought to be presumed that it has done due diligence and approved the date given by the Petitioner. Therefore, the reflection of a different date of birth in the Aadhar Card cannot become the basis for rejection of the Petitioner's pension when the Board has its own records to rely upon.*
>
> *...*
>
> *27. Construction workers being vulnerable section of society ought to be assisted by the Board rather than being treated in a manner as is contrary to the spirit of the Act and Rules. In the case of any ambiguity or doubt, the benefit ought to be extended to the construction worker rather than being deprived of the same.*"

16. As against Ex. WW-1/7, the Labour Court, *vide* order dated 19.05.2022, summoned the ESIC record of the workwoman. An official of the ESIC Branch Office, *Mayapuri*, was examined as a

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Court witness (CW-2) to prove this record. He deposed that the workwoman was registered with the ESIC on 26.06.2010, and that her date of birth was furnished by the management itself as 20.05.1960.

17. Significantly, this entry was made several years before the present dispute arose, at a time when neither party had any apparent reason to dispute the workwoman's age. The management did not cross-examine CW-2. It also did not produce any documents on the basis of which it had furnished this date to the ESIC.

18. It is settled law that where a party withholds a document in its possession which could throw light on the matter in issue, the Court may draw an adverse inference against the said party. The Labour Court, therefore, rightly drew an adverse inference against the management.

19. The workwoman's *Aadhaar* card, exhibited as Ex. WW-1/7, is not supported by any independent document on record, and was admittedly received by the management from her only in March 2017, merely 2 months before her services were brought to an end. On the other hand, the ESIC record, which shows her date of birth as 20.05.1960, was made at a time when there was no apparent dispute between the parties, and the date of birth therein was furnished by the management itself. Having recorded her date of birth as 20.05.1960, the management could not later rely upon a different date in an *Aadhaar* card to end her services a year earlier. It is also worth mentioning at this point that the ID Act is a beneficial piece of legislation.

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20. After considering the material on record, the Labour Court relied upon the ESIC record over Ex. WW-1/7 to determine the workwoman's date of birth. This is a finding of fact based on evidence. This Court is of the considered opinion that the same is a plausible view and cannot be termed perverse so as to warrant interference under this Court's writ jurisdiction.

21. Insofar as issue no. 2 is concerned, once the workwoman was held not to have attained the age of superannuation, and the management failed to prove her resignation or voluntary retirement, the termination of her services without compliance with Section 25F of the ID Act was rightly held to be illegal.

22. Accordingly, finding no merit in the present writ petition, the same is dismissed.

23. The amount deposited with the Registrar General of this Court pursuant to the order dated 30.11.2022, along with any interest accrued thereon, shall be released to the respondent/workwoman. The remaining amount, if any, be directly paid to workman by the petitioner/management within a period of four weeks from today.

24. The pending application is also disposed of in the above terms.

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

**NOVEMBER 13, 2026**
*nb*

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