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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C.) No. 614/2007

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Date of Decision: 22nd September, 2009

SHRI SWAMI NATH PANDEY

..... PETITIONER

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Through: Mr. K. Prabhakar Rao, Advocate

VERSUS

\$THE MANAGEMENT OF M/S D.T.D.C. LIMITED

.....RESPONDENT

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Through: None

CORAM:

Hon'ble MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper may be allowed to see the judgment? **NO**
2. To be referred to the reporter or not? **NO**
3. Whether the judgment should be reported in the Digest? **NO**

S.N.AGGARWAL, J (ORAL)

The petitioner in this writ petition seeks to challenge an industrial award dated 14.11.2005 in ID No. 53/1998 by which he has been awarded compensation of Rs. 30,000/- in lieu of his claim for reinstatement and back wages.

2. Since nobody appeared on behalf of the respondent management despite service of notice of the present proceedings, the respondent was proceeded ex parte vide order dated 23.09.2008.

3. Mr. K. Prabhakar Rao, learned counsel appearing on behalf of the workman contends that since the Labour Court has held the termination of the petitioner to be illegal, the petitioner was entitled for reinstatement and he could not have been deprived of his employment. The Court below, while awarding compensation of Rs. 30,000/- to the petitioner in lieu of his claim for reinstatement and back wages, took note of the fact that he was 55 years old at the time of passing of the award

and that he had rendered hardly five years' service at the time of termination. The claim for reinstatement made on behalf of the petitioner is not sustainable in view of judgment of the Hon'ble Supreme Court in ***Telecom District Manager and Others Versus Keshab Deb, (2008) 8 SCC 402***, wherein it was held that even in a case where an order of termination is illegal, an automatic direction for reinstatement with full back wages is not contemplated. It was held in the said case that the workman at best was entitled to one month's pay in lieu of one month's notice and wages of 15 days for each completed year of service as envisages under Section 25-F of the Industrial Disputes Act, 1947.

4. In the present case, the petitioner has rendered total service of only about five years at the time his services were terminated. His last drawn wages were Rs. 2292/-. In terms of Section 25-F, the petitioner was entitled only to have one month's notice pay and also pay for 15 days for each completed year of service rendered by him with the management. In case, the compensation in terms of Section 25-F is calculated, then the entire compensation amount comes to around Rs. 8,000/-. The Court below has awarded compensation of Rs. 30,000/- in lieu of the claim of the petitioner for his reinstatement and back wages. This amount, by no means, can be said to be inadequate.

5. In view of the above, I do not find any perversity in the impugned award that may call for an interference by this Court in exercise of its extraordinary writ jurisdiction under Article 226 of the Constitution of India.

This writ petition, therefore, fails and is hereby dismissed.

September 22, 2009
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S.N.AGGARWAL, J