

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 30.10.2014

+ **W.P.(C) 8404/2010**

RAM MURAT

..... Petitioner

versus

M/S. DYNATECH CONTROLS (P) LTD.

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr Sanjoy Ghose.

For the Respondent : Mr Satender Verma.

AND

+ **W.P.(C) 3496/2011**

M/S. DYNATECH CONTROLS (P) LTD.

..... Petitioner

versus

RAM MURAT

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr Satender Verma.

For the Respondent : Mr Sanjoy Ghose.

CORAM:-

HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. These petitions have been filed impugning an award dated 05.12.2009 passed by the Labour Court in DID No. 407/06/05 (hereinafter referred to as the 'impugned award'). By the impugned award, the Labour

Court has awarded a compensation of ₹33,705/- to the workman (petitioner in W.P.(C) 8404/2010).

2. While the workman is aggrieved by the impugned order inasmuch as, although the Labour Court has held that termination of the workman was unjustified, the Labour Court has not reinstated the workman with back wages and has instead directed payment of compensation. M/s. Dynatech Controls Pvt. Ltd. (petitioner in W.P.(C) 3496/2011), is aggrieved inasmuch as the Labour Court has found that the workman's termination was unjustified.

3. Briefly stated the relevant facts for considering the controversy in the present matter are as under:-

3.1 Ram Murat, petitioner in W.P.(C) 8404/2010 (hereinafter referred to as 'the workman') joined the services of M/s. Dynatech Controls Pvt. Ltd. (hereinafter referred to as 'the company') as a helper. While the workman has contended that he had joined the services of the company as machine operator w.e.f. 01.12.1994, the company asserts that the workman joined the company as a helper w.e.f. 01.05.1995. The services of the workman were terminated w.e.f. 07.02.2005. Whereas the workman has contended that his termination was illegal, the company contends that the workman chose to leave the services of the company of his own free will, after executing the necessary documents evidencing his resignation and receiving his dues in full and final settlement.

3.2 On 30.03.2005, the workman filed an industrial dispute with the Labour Court alleging that his services had been illegally terminated. The

workman filed a statement of claim and after completion of pleadings, the Labour Court struck the following issues:-

“a) Whether the workman himself left the job on 07.02.05 on his own voluntarily after the receipt of accrued dues? If so, its effect? OPM

b) If issue no.1 is proved in favour of the workman, whether his services were terminated by the management illegally and / or unjustifiably? If so, its effect? OPW

c) Relief.”

4. It was the workman’s case that there was an altercation with one of the principal promoters of the company and that he had been manhandled. He states that he had, thereafter, filed a police complaint and the incident had led to his illegal termination from the services of the company. The workman further asserted that his signatures had been taken on certain blank papers, at the time of joining the services, which were subsequently filled up to show his resignation as well as receipt of full and final settlement of his dues. The company on the other hand, produced several documents including the resignation letter of the workman, a voucher indicating that he had received a sum of ₹19,353/- as full and final settlement of his dues. It was contended on behalf of the company that the petitioner had left the services voluntarily and that his services had not been terminated. The Labour Court considered the evidence led and came to the conclusion that the services of the workman had been unjustifiably terminated.

5. The company sought to support its claim that the workman had voluntarily resigned from its services and accepted a sum of ₹19,353/- in

full and final settlement of his dues by, *inter alia*, three documents, namely a resignation letter dated 07.02.2005 (Ex. WW 1/M-1), a voucher for a sum of Rs.19,353/- dated 07.02.2005 (Ex. WW 1/M-2) and a calculation sheet showing the details of payment due towards the gratuity, earned leave, bonus and wages for February (Ex. WW 1/M-5). The Labour Court came to the conclusion that the said documents could not be proved. The workman had denied the documents to be his documents - he had accepted his signature on the documents but had stated that the same were taken on blank sheets of paper at the time of his joining the services. The Labour Court concluded that the calculation sheet could not be proved as the company's witness had not affirmed that it was signed in his presence. Although the resignation letter had been accepted, the name and authority of the person who had accepted the resignation letter was not disclosed nor was he examined to testify that the workman had resigned voluntarily. Insofar as the settlement of dues is concerned, the Labour Court held that it was not in conformity with Rule 58(4) of the Industrial Disputes (Central) Rules, 1957.

6. The Labour Court had appreciated the evidence and arrived at the conclusion that the company was unable to prove that the workman had voluntarily resigned from the services. In addition, it is also important to bear in mind the natural course of events. The workman had worked for the company for over a decade and there was no reason why the workman would abruptly tender his resignation and leave the services of the company. The workman had immediately raised an industrial dispute, which was filed with the Labour Court on 30.03.2005, that is, proximate to

the alleged resignation. These circumstances also indicate that the workman's severance from the company was not entirely voluntary. In the circumstances, the conclusion arrived at by the Labour Court that the services of the workman were terminated unjustifiably ought not to be interfered with.

7. The Labour Court also took note of the relationship between the company and the workman and held that the reinstatement of the workman would not be appropriate. It is now trite law that the Labour Court has a discretion to mould the relief where it is found that services of the workman have been illegally/unjustifiably terminated. In the present case, the Labour Court awarded a compensation of ₹33,705/- to the workman in lieu of reinstatement. In addition, the workman was also awarded a sum of ₹5,000/- as litigation expenses. It is well settled that in cases where the termination of workman is found to be illegal, reinstatement in services with back wages would not necessarily follow. The Supreme Court in the case of **Telegraph Deptt. v. Santosh Kumar Seal: (2010) 6 SCC 773** has held as under:-

“9. In the last few years it has been consistently held by this Court that relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate.”

8. In the present case, the employer is a private company. As per the statement of the workman, there was an altercation with one of the promoters of the company. According to the workman, he had been manhandled and had, thereafter, filed an FIR. In the given circumstances,

reinstating the workman in the company would not be feasible. In my view, the approach of the Labour Court was reasonable and the Labour Court had rendered substantial justice.

9. In view of the above, I find no reason to interfere with the impugned award. Accordingly, the petitions are dismissed. The parties are left to bear their own costs.

OCTOBER 30, 2014
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VIBHU BAKHRU, J

