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

+ **W.P.(C) 4457/2013**

% *Judgment delivered on: 24th December, 2014*

MOHIT JAIN

..... Petitioner

Represented by: Mr. Vikas Arora and Mr.
Akshat Rehani, Advs.

versus

THOMAS COOK (INDIA) LIMITED

..... Respondent

Represented by: Mr. Alok Bhasin and Ms.
Poonam Das, Advs.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J.

1. Vide the present writ petition, the petitioner seeks direction to modify the impugned award dated 15.02.2010 passed by learned Labour Court thereby enhancing the amount of compensation awarded to the petitioner workman and also seeks direction for reinstatement with all benefits and seniority in service.

2. Admittedly, the rate applied by the petitioner workman for sale of US Dollar 2838 was Rs.41.50 instead of actual selling rate of Rs.43.50, thus sold US Dollars 2838 to one Mr. K.C. Pathak for

Rs.1,17,777/- instead of Rs.1,22,460/-. Consequently, he made an excess payment of Rs.4723/-. Moreover, he failed to detect the said error. On pointing out by another staff, the said error was detected. The petitioner workman, admittedly, deposited the amount of Rs.4723/- to the respondent company for the loss suffered.

3. In the case of *Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyala (D.ED.) & Ors., (2013) 10 SCC 324*, the Hon'ble Supreme Court has observed that in a very nature of things there cannot be a strait jacket formula for awarding relief of reinstatement with back wages. All relevant considerations will enter the verdict. More or less, it would be a motion addressed to the discretion of the Tribunal.

4. The learned Labour Court, after considering the facts and evidence on record, observed that the petitioner was performing the duties of a cashier dealing with foreign exchange. His nature of job was to be highly vigilant. He did not perform his duty vigilantly due to which the respondent company suffered a loss and, therefore, such a workman cannot be tolerated in the management where money transactions are involved. Moreover, the petitioner failed to lead any evidence that he remained unemployed since the date of his termination.

5. Accordingly, keeping in view the evidence on record and the circumstances of the case, the learned Labour Court awarded compensation in the form of lump sum amount of Rs. 3 lac (Rupees

Three Lakhs) towards all the claims of the petitioner workman.

6. The present petition is filed under judicial review. Evidence need not be appreciated in such cases. This Court has only to see whether there is any perversity in the impugned award or passed without jurisdiction.

7. The petitioner has failed to prove both the facts noted above, therefore, I am not inclined to interfere with the same.

8. Accordingly, the present writ petition is dismissed with no order as to costs.

SURESH KAIT, J

DECEMBER 24, 2014
RS