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

+ **LPA 422/2015**

M/S BATILIVALA & KARANI Appellant

Represented by: Mr.Inderjit Sing, Advocate with
Mr.Om Prakash, Advocate

versus

THE DY LABOUR COMMISSIONER & ANR Respondents

Represented by: Mr.Anuj Aggarwal, Advocate for R-1
Mr.Anand K.Chauhan, Advocate for
R-2

LPA 427/2015

M/S BATLIVALA & KARANI Appellant

Represented by: Mr.Inderjit Sing, Advocate with
Mr.Om Prakash, Advocate

versus

DY LABOUR COMMISSIONER

GOVT OF NCT OF DELHI & ANR

..... Respondents

Represented by: Mr.Anuj Aggarwal, Advocate for R-1
Mr.Anand K.Chauhan, Advocate for
R-2

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

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24.08.2015

1. Sheetal Prasad Shukla and Lalit Mohan Jain were the employees of the appellant and the two had raised a grievance concerning their service. They alleged that it had been illegally terminated. Reference was made to

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the Labour Court. ID No.251/2000 and ID No.252/2000 was registered before the Labour Court, the former concerning Sheetal Prasad's claim and the latter concerning Lalit Mohan's claim.

2. Two awards were pronounced on January 30, 2006, one each in the two references. Holding that the service of the two workmen was illegal and further noting that the appellant had closed down its business during the pendency of the proceedings the award was that both workmen would be entitled to receive ₹3,00,000/- as compensation apart from such dues which they would be entitled to as per law.

3. The two awards attained finality. The appellant claims to have satisfied the award and paid the compensation plus gratuity for 17 years, notice pay for two months, leave encashment, bonus till the year the alleged termination took place as also interest.

4. The grievance of the appellant before the learned Single Judge was to recovery certificates issued by the Deputy Labour Commissioner in which the Deputy Labour Commissioner had computed the wages payable based whereon gratuity, notice pay, leave encashment and bonus had been worked out. As per the appellants the recovery certificate were based on some alleged increments which the workmen claimed and could not have been even looked into by the Deputy Labour Commissioner. The learned Single Judge has held that as per the award the gratuity, leave encashment, two months' salary was the sum legally payable if retrenchment had taken place and thus the Deputy Labour Commissioner was fully justified in giving annual increments of 10% to compute the amounts payable.

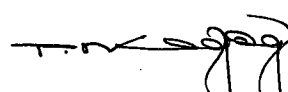
5. The view taken by the learned Single Judge is incorrect for the reason whether or not annual increments were payable required evidence and was

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by itself an industrial dispute. Based on the determination of the wages depended the qualification of the rest.

6. We dispose of the appeals setting aside the impugned order(s) dated May 13, 2005 and dispose of W.P.(C) No.4963/2014 and W.P.(C) No.4967/2014 filed by the appellants and quash the recovery notice(s) dated April 10, 2013. It would be open to the workmen i.e. the respondent No.2 in the two appeals to raise an industrial dispute regarding whether they were entitled to annual increments.

7. No costs.


PRADEEP NANDRAJOG, J.


MUKTA GUPTA, J.

AUGUST 24, 2015

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Fresh R.P. No. 494/15 on G/O R2 for review of above or.