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CWP No. 19718 of 2005

GARRISON ENGINEER MES V/S ITWAR CHAND

Present: Mr. Deepak Malhotra, Advocate for the petitioner

Respondent-Itwar Singh with
Mr. P.M.Kansal, Advocate

* * * *

Vide award dated 31.1.2005 (Annexure P-1) of the Labour Court it was concluded as under:

“Therefore, I order that the workman is entitled to the relief of reinstatement in service immediately with all other relief as has been given to other 69 workmen similarly placed on the directions of the Hon'ble Supreme Court. The reference is answered in favour of the workman. Central Govt. be informed. File be consigned to record.”

This order was challenged by the Management by way of this writ petition. In terms of the award the petitioner was reinstated as is clear from the order of the Hon'ble High Court dated March 20, 2007 which reads as under:

“Learned counsel for the petitioner states that in terms of the award of the Labour Court, the workman has been reinstated.

In view of the said fact, no further order is called for on the present application for release of payment of wages in terms of Section 17-B of the Industrial Disputes Act, 1947.

CM stands disposed of.”

In fact, the case of the respondent-workman was that his case is fully covered by the Apex Court judgment referred to in the award of the Labour Court. Respondent-workman had also moved an application placing on record judgment of the Apex Court. About 69 workers were granted

benefits as per the judgment of the Apex Court as is clear from the last para of the award of the Labour Court. Learned counsel for the parties have agreed that if an order is passed that the case of the respondent-workman be also considered in the light of the Supreme Court judgments referred to in the award of the Labour Court and would be given same relief as given to the 69 workers if the case of the present workman is not distinguishable from those 69 workers. Learned counsel for the respondent states that in case the Management passes an order against the workman liberty be given to challenge the same before the appropriate Forum in accordance with law.

In view of the stance taken by the counsel for the parties, this writ petition is disposed of with a direction to the petitioner-management to consider the case of the present workman-respondent in the light of the judgment of the Apex Court referred to in the award of the Labour Court and give him same relief as given to 69 petitioners unless the case of respondent-workman is distinguishable from those 69 workmen. Let order be passed in writing within a period of three months from the date of receipt of copy of this order. If the order is against the workman, he would be at liberty to challenge the same before the appropriate Forum in accordance with law.

Copy of the order be given to learned counsel/parties.

(R.S.Mongia)
President

(Arvind Kumar)
Member

09.11.2016
Janki