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

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Date of Decision: 24th November, 2016

+ **W.P.(C) 1905/2011**

LOK NAYAK JAI PRAKASH NARAIN HOSPITAL....Petitioner

Through: Mr. Naushad Ahmed Khan,
ASC (Civil), GNCTD.

versus

ATTAR SINGH

..... Respondent

Through: Mr. K. B. Mina, Adv.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The petitioner has challenged the award of the Labour Court whereby the petitioner has been directed to reinstate the respondent and pay the compensation of Rs.25,000/-.
2. The respondent joined the petitioner in 1999 as an Ex-serviceman. He remained absent from duty with effect from 20th January, 2003 on account of illness whereupon the petitioner initiated disciplinary proceedings against the respondent and thereafter, imposed a penalty of dismissal/removal from service vide order dated 16th October, 2008.
3. The respondent raised an industrial dispute to challenge the order of dismissal. The respondent did not contest the petition before the Labour Court and was proceeded *ex parte*. The Labour Court accepted the claim of the respondent and held the dismissal to be

illegal. The Labour Court directed re-instatement of the respondent with continuity of service and payment of Rs.25,000/- to the respondent.

4. Learned Addl. Standing Counsel for Government of NCT of Delhi urged at the time of hearing that the Labour Court had no jurisdiction to entertain and try the claim. It is submitted that the respondent being a regular government employee, the jurisdiction is with Central Administrative Tribunal under Section 2 (q) of the Administrative Tribunals Act, 1985. Without prejudice, it is submitted that the termination was lawful as the respondent unauthorizedly remained absent from duty for 494 days and the respondent did not provide the medical certificate for the entire period. It is further submitted that the respondent was terminated after a valid enquiry.

5. The learned counsel for the respondent submits that the jurisdiction of the Labour Court is not barred. Reliance is placed on ***Kendriya Vidyalaya vs. Sushil Kumar***, 2007 (142) DLT 542 in which this court has held that the jurisdiction of the Labour Court is not barred. It is further submitted that the petitioner did not contest the claim despite valid service and, therefore, there is no infirmity in the award of the Labour Court.

6. The learned counsel for the respondent further submits that the respondent expired on 4th November, 2012 and is survived by his widow and seven children. It is submitted that the widow of the deceased has no means of sustenance.

7. On careful consideration of the contentions urged by the learned

counsel for both the parties, this Court is of the view that the jurisdiction of the Labour Court is not barred in view of the principles laid down in *Kendriya Vidyalaya v. Susil Kumar* (supra). There is no infirmity in the finding of the Labour Court holding the termination of the respondent illegal as the respondent was terminated without following the due process of law. However, relief of reinstatement has become infructuous on account of death of the respondent and, therefore, the same is substituted with the compensation of Rs.3,69,562/- deposited by the petitioner with the Registrar General of this court (Rs.25,000/- deposited in terms of the order dated 12th October, 2011 and Rs.3,44,562/- deposited in terms of the order dated 8th December, 2014) along with interest accrued thereon.

8. The Registrar General is directed to release Rs.3,69,562/- along with interest accrued on the FDRs to Premwati, widow of deceased respondent, Attar Singh.

9. The learned counsel for the respondent submits that cost of Rs.5,000/- deposited by the petitioner in terms of the order dated 1st August, 2012 has not been released to the respondent. The registry shall release the cost of Rs.5,000/- to Premwati, widow of deceased respondent.

10. The writ petition is disposed of in above terms.

11. Copy of this judgment be given dasti to learned counsel for both the parties.

NOVEMBER 24, 2016

ssc

J.R. MIDHA, J.