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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 08th December, 2016

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W.P.(C) 4975/2011

VINOD KUMAR

..... Petitioner

Through: Mr. Kishore Kumar Patel, Adv.

versus

M/S DTC

..... Respondent

Through: Mr. Sarfaraz Khan and Mr.
Ataur Rahman, Advs.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The petitioner has challenged the award of the Labour Court whereby the learned Labour Court has awarded compensation of Rs.40,000/- in lieu of reinstatement and back wages.
2. Learned counsel for the petitioner submits that his case is squarely covered by the Division Bench judgment of this Court in ***DTC v. Ran Singh***, (2012) 135 FLR 55 in which the Division Bench following the order dated 25th April, 2006 passed by the Supreme Court in batch of appeals titled ***DTC v. Prakash Chand*** Civil Appeal Nos.7110-7111/2004, awarded reinstatement without back wages to the similarly situated workmen. Learned counsel for the petitioner submits, on instructions from the petitioner present in Court, that the petitioner be granted similar relief.
3. In ***DTC v. Ran Singh*** (*Supra*), the Division Bench of this Court

awarded reinstatement without back wages to the similarly situated workmen. The relevant portion of the said judgment is reproduced hereunder:-

“4. After hearing the counsels for the parties, we are of the opinion that the present case which is identically situated requires the same treatment. It is a matter of record that the respondent workman had remained absent from 14.08.1986 to 24.03.1987 when provisions of Clause 14(10)(b) of the DRTA Regulations were invoked. Before invoking the aforesaid provision, notice was sent to the respondent workman asking him to join the duties but he failed to do so. Though the respondent workman is reinstated in service but only on technical ground that such provision should not have been invoked. Having regard to this fact and going by the spirit of orders passed by the Supreme Court in DTC Vs. Prakash Chand, we are of the opinion that in the instant case as well, the respondent workman is not entitled to any back wages. The order of the learned Single Judge as well as the impugned award passed by the Labour Court is modified to this extent.

5. Some amount towards back wages was recovered by the respondent workman in the execution proceedings in the year 2002, before the writ petition was filed. That amount shall not be recovered from the respondent workman by the appellant.

6. It is further made clear that the respondent workman shall be given the regular wages with effect from 10.07.2009 since when he joined back the services. As per the award, the intervening period has to be counted for the purpose of retiral/pensionary benefits. We make it clear that since continuity in service has been granted and we have only denied the arrears of back wages, the pay of the respondent workman w.e.f. joining on 10.07.2009 is to be as if there was no termination i.e. by granting him the

benefits of increments / pay revision etc. The pay of the respondent workman shall be so fixed and arrears of salary with effect from 10.07.2009 shall be paid accordingly within a period of four weeks from today. The appeal is allowed to the aforesaid extent.”

4. This case is squarely covered by ***DTC v. Ran Singh*** (*Supra*). Following the Division Bench Judgment, the writ petition is allowed and the petitioner is granted reinstatement without back wages. The petitioner shall be entitled to regular wages w.e.f. joining back the services. The intervening period be counted for the purpose of retiral/pensionary benefits. The pay of the petitioner shall be fixed as if there was no termination i.e. by granting him the benefits of increments/pay revision. The DTC shall award all benefits which were granted to the workmen in ***DTC v. Ran Singh*** (*Supra*).
5. Copy of this judgment be given *dasti* to learned counsels for the parties under signature of Court Master.

DECEMBER 08, 2016
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J.R. MIDHA, J.