

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

Date of Decision: July 27th, 2017

+ W.P (C) No. 12666/2004

ASHOK KUMAR & ORS. Petitioners

Through: Mr.Umesh Sharma, Adv.

versus

M/S. HINDUSTAN VEGETABLE OIL CO..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

1. The present writ petition challenges award, dated 13th August, 2003, passed by the Labour Court (X), Karkardooma in ID No.1440/95.

2. Mr.Umesh Sharma, learned counsel appearing on behalf of the petitioners, confines his challenge to para 10 of the impugned award, which reads as under:

“Now, comes the turn as to what relief should be granted to the workers. Ordinarily a workman becomes entitled to reinstatement and full back wages once the order of termination is regarded illegal and unlawful. The workers in this case have worked with the management for two and two and half years as a packer. The litigation is pending for the last about 12 years. In these circumstances, I feel that it would meet the ends of justice if each of the workers is awarded a lump sum

compensation of Rs. 30,000/-. Accordingly, each one of the following workers is awarded Rs. 30,000/- as lump sum compensation in lieu of reinstatement and full back wages.” Their names are as under:-

1)Maya Ram, 2)Ram Ganesh, 3) Vinod Kumar, 4) Ram Milan, 5) Rajender, 6) Virender 7) Kailash, 8) Ram Niwas, 9) Jitender 10) Harvinder Singh, 11) Jai Kesh, 12) Ganga Singh, 13) Radha Kishan, 14)Kaptan Singh, 15) Chander Prakash, 16) Mawa Lal, 17) Rajender S/o Sh. Prabhu Dayal, 18) Rajender S/o Sh. Ram Deve, 19) Ram Narayan, 20) Khazan Chand, 21) Darshan Singh, 22) Anil Singh, 23) Dinesh, 24) Tirath, 25) Ashok S/o Sh. Chunni Lal, 26) Shri Kishan, 27) Om Prakash S/o Sh. Laxman, 28) Rajesh, 29) Tara Chand, 30) Ram Narayan, 31) Gopal Krishan, 32) Ishwar Lal S/o Shri Ganpat, 33) Sukh Lal, 34) Ram Phool, 54) Baljeet, 36) Ghan Shyam, 37) Duli Chand, 38) Madan Lal, 39) Om Prakash S/o Sh. Chander Mohan, 40) Joginder Singh 41) Shravan Kumar, 42)Chottey lal, 43) Hoshyar Singh, 44) Ishwar Chand S/o Kanhaiya Lal, 45) Jai Prakash, 46) Om Prakash S/o Sri Ram, 47) Satveer, 48) Ishwar S/o Sh. Jugnu 49) Deepak S/o Sh. Satyanveer, 50) Ashok S/o Sh. Gur Prasad.

3. There is no appearance on behalf of the respondent.
4. In view of the limited challenge ventilated by Mr. Umesh Sharma at the Bar, it is not necessary to delve too deep into the facts. A brief reference, thereto, would suffice.

5. 64 workmen, employed with the petitioner (Hindustan Vegetable Oil Ltd.), raised an industrial dispute challenging the termination of their services, by the management of the petitioner, which led to a reference, of the following dispute, by the Government, to the Labour Court, for adjudication under Section 10(i) (c) and 12 (5) of the Industrial Disputes Act, 1947 (hereinafter referred to as “the Act”)

“Whether the services of S/Shri Ganga Singh, Virender Singh, Duli Chand, Darshan Singh, Shri Krishan, Ravinder Kumar, Kailash Chander, Radha Krishan, Satveer, Ghan Shayam, Surender Pal, Maya Ram, Rajender Kumar. Gopal Krishan, Manohar Lal, Madan Lal, Ashok Kumar, Wewa Lal, Om Parkash Trapan, Tirath Ram, Rajender Kumar, Ram Phool, Dinesh Ram Niwas, Rajesh Kumar. Ram Singh, Ajay Kumar, Kaptan Singh, Vijay Kumar, Kaptan Singh, Vijay Pal, Yogeder Singh, Jai Kesh, Kanwar Singh, Ram Narain, Ashok Kumar Singh, Om Prakash, Jitender Singh, Deepak Sharma, Rajinder, Anil Kumar, Vimal Kumar, Ishwar Chand, Ishwar Lal, Rajender Kumar, Ram Milan, Sukh Lal, Chander Parkash, Vinod Kumar, Om Prakash, Harvinder Singh, Ram Narain, Sarwan Kumar, Deepak Sharma, Raju, Chottey Lal, Prithi Singh, Dinesh Singh, Ram Ganesh, Tara Chand, Sh. Ram, Hosiyar Singh, I shwar Chand, Khazan Chand, Baljeet Singh and Jai, Dr. Prakash have been terminated illegally and/ or unjustifiably by the management and if so, to what relief are they entitled and what directions are necessary in this respect?”

6. As the termination of the services of the said workmen had been effected, on 3rd July, 1991, without any prior notice, charge-sheet or enquiry having been held, the workmen contended that their termination was in violation of Section 25(F) of the Act.

7. Consequent to completion of pleadings, by way of statement of claim, written statement and rejoinder, before the Labour Court, evidence, by way of affidavits was filed by 53 of the 64 workmen. Of the said 53 workmen, however, 3 workmen, namely, Surinder, Vijay Pal and Deepak Mathur, had not signed the claim statement. As such, the impugned award was limited to 50 workmen, who had signed the claim statement and filed affidavits by way of evidence.

8. The respondent did not contest the matter, and was proceeded *ex parte* by the Labour Court vide order dated 14th January, 2000.

9. Vide the impugned award dated 13th August, 2003, the Labour Court held that there was no reason to disbelieve the unchallenged and unrebutted testimony of the 50 workmen who had filed affidavits. As the petitioner/management had not cared either to cross-examine the said workmen or lead its own evidence, the Labour Court held the termination, of the said 50 workmen, to be “illegal, unlawful and unjustified”. Having ruled thus, the Labour Court (vide para 10 of the impugned award which has been reproduced herein above), held that, while, ordinarily, the sequitur to an order of termination of a workman being held illegal and unlawful, was that the workman became entitled to reinstatement with full back wages, in the present case, as the workmen had worked with the management for nearly 2 to 2.5 years

as packers, and the litigation itself had remained pending for about 12 years, the interests of justice would stand satisfied if lump sum compensation of Rs. 30,000/- was awarded to each of the said workers. The Labour Court, therefore, disposed of the reference in the said terms.

10. As already noted hereinabove, the challenge by the petitioner/workmen in the present case, is limited to the restriction, by the Labour Court, of the relief, to grant of lump sum compensation of Rs.30,000/-. Mr. Umesh Sharma, appearing on behalf of the petitioner, fervently contended that para 10 of the impugned award did not disclose any justification, whatsoever, to limit the relief granted to lump sum compensation, rather than granting reinstatement with full back wages. Without prejudice and as an alternative, Mr. Umesh Sharma contends that the compensation award was grossly inadequate and unreasonable as the proceedings before the Labour Court had continued for as long as 12 years. At the very least, he would contend, the compensation awarded to each of the said workmen ought to have covered the wages which they would have drawn, had they not been reinstated and continued in service till the date of the impugned award.

11. The initial submission, of Mr. Umesh Sharma, to the effect that the workmen ought to have been reinstated with full back wages, cannot be granted, being contrary to the extant legal position obtaining today. In a recent order, pronounced on 21st July, 2017 in WPC 9468/2004 (*DDA v. Mool Chand*), this Court has had occasion to note the change, in perception, of the Supreme Court, on the issue of

appropriate relief to be granted to a workman whose termination was found to be illegal/unjustified. The submission of Mr. Umesh Sharma is, undoubtedly, in harmony with the earlier prevailing view on this issue, as manifested by the following words, of D.A. Desai J, speaking for a 3 Judge Bench of the Supreme Court in ***M/s. Hindustan Tin Works Pvt. Ltd. v. The Employees of M/s. Hindustan Tin Works Pvt. Ltd., (1979) 2 SCC 80:***

“9. It is no more open to debate that in the field of industrial jurisprudence a declaration can be given that the termination of service is bad and the workman continues to be in service. The spectre of common law doctrine that contract of personal service cannot be specifically enforced or the doctrine of mitigation of damages does not haunt in this branch of law. The relief of reinstatement with continuity of service can be granted where termination of service is found to be invalid. It would mean that the employer has taken away illegally the right to work of the workman contrary to the relevant law or in breach of contract and simultaneously deprived the workman of his earnings. If thus the employer is found to be in the wrong as a result of which the workman is directed to be reinstated, the employer could not shirk his responsibility of paying the wages which the workman has been deprived of by the illegal or invalid action of the employer. Speaking realistically, where termination of service is questioned as invalid or illegal and the workman has to go through the gamut of litigation, his capacity to sustain himself throughout the protracted litigation is itself such an awesome factor that he may not survive to see the day when relief is granted. More so in our system where the law's proverbial delay has become stupefying. If after such a protracted time and energy consuming litigation during which period the workman just sustains himself, ultimately he is to be told that

though he will be reinstated, he will be denied the back wages which would be due to him, the workman would be subjected to a sort of penalty for no fault of his and it is wholly undeserved. Ordinarily, therefore, a workman whose service has been illegally terminated would be entitled to full back wages except to the extent he was gainfully employed during the enforced idleness. That is the normal rule. Any other view would be a premium on the unwarranted litigative activity of the employer. If the employer terminates the service illegally and the termination is motivated as in this case viz. to resist the workmen's demand for revision of wages, the termination may well amount to unfair labour practice. In such circumstances reinstatement being the normal rule, it should be followed with full back wages. Articles 41 and 43 of the Constitution would assist us in reaching a just conclusion in this respect. By a suitable legislation, to wit, the U.P. Industrial Disputes Act, 1947, the State has endeavoured to secure work to the workmen. In breach of the statutory obligation the services were terminated and the termination is found to be invalid; the workmen though willing to do the assigned work and earn their livelihood, were kept away therefrom. On top of it they were forced to litigation up to the Apex Court now they are being told that something less than full back wages should be awarded to them. If the services were not terminated the workmen ordinarily would have continued to work and would have earned their wages. When it was held that the termination of services was neither proper nor justified, it would not only show that the workmen were always willing to serve but if they rendered service they would legitimately be entitled to the wages for the same. If the workmen were always ready to work but they were kept away therefrom on account of an invalid act of the employer, there is no justification for not awarding them full back wages which were very legitimately due to them. A Division Bench of the Gujarat High Court in *Dhari Gram Panchayat v. Safai Kamdar*

Mandal [(1971) 1 LLJ 508 (Guj)] and a Division Bench of the Allahabad High Court in Postal Seals Industrial Cooperative Society Ltd. v. Labour Court II, Lucknow [(1971) 1 LLJ 327 (All)] have taken this view and we are of the opinion that the view taken therein is correct.

11. In the very nature of things there cannot be a strait-jacket formula for awarding relief of back wages. All relevant considerations will enter the verdict. More or less, it would be a motion addressed to the discretion of the Tribunal. Full back wages would be the normal rule and the party objecting to it must establish the circumstances necessitating departure. At that stage the Tribunal will exercise its discretion keeping in view all the relevant circumstances. But the discretion must be exercised in a judicial and judicious manner. The reason for exercising discretion must be cogent and convincing and must appear on the face of the record. When it is said that something is to be done within the discretion of the authority, that something is to be done according to the Rules of reason and justice, according to law and not humour. It is not to be arbitrary, vague and fanciful but legal and regular

12. It was, however, very strenuously contended that as the appellant company is suffering loss and its carry-forward loss as on March 31, 1978 is Rs 8,12,416.90, in order to see that the industry survives and the workmen continue to get employment, there must be some sacrifice on the part of workmen. If the normal rule in a case like this is to award full back wages, the burden will be on the appellant-employer to establish circumstances which would permit a departure from the normal rule. To substantiate the contention that this is an exceptional case for departing from the normal rule it was stated that loss is mounting up and if the appellant is called upon to pay full back wages in the aggregate amount of

Rs. 2,80,000/-, it would shake the financial viability of the company and the burden would be unbearable. More often when some monetary claim by the workmen is being examined, this financial inability of the company consequent upon the demand being granted is voiced. Now, undoubtedly an industry is a common venture, the participants being the capital and the labour. Gone are the days when labour was considered a factor of production. Article 43-A of the Constitution requires the State to take steps to secure the participation of workmen in the management of the undertaking, establishments or other organisations engaged in any industry. Thus, from being a factor of production the labour has become a partner in industry. It is a common venture in the pursuit of a desired goal.

13. Now, if a sacrifice is necessary in the overall interest of the industry or a particular undertaking, it would be both unfair and inequitable to expect only one partner of the industry to make the sacrifice. Pragmatism compels common sacrifice on the part of both. The sacrifice must come from both the partners and we need not state the obvious that the labour is a weaker partner who is more often called upon to make the sacrifice. Sacrifice for the survival of an industrial undertaking cannot be an unilateral action. It must be a two-way traffic. The management need not have merry time to itself making the workmen the sacrificial goat. If sacrifice is necessary, those who can afford and have the cushion and the capacity must bear the greater brunt making the shock of sacrifice as less poignant as possible for those who keep body and soul together with utmost difficulty.

17. Now, undoubtedly the appellant appears to have turned the corner. The industrial unit is looking up. It has started making profits. The workmen have already been reinstated and, therefore, they have started earning their wages. It may, however, be recalled that the appellant

has still not cleared its accumulated loss. Keeping in view all the facts and circumstances of this case it would be appropriate to award 75% of the back wages to the workmen to be paid in two equal instalments.”

(Emphasis supplied)

12. Subsequently, however, the Supreme Court progressively diluted the said earlier view held by it, initially with regard to the quantum of back wages to be awarded and, later, with regard to whether reinstatement with back wages ought to be awarded at all. ***P.G.I. of Medical Education & Research, v. Raj Kumar, (2001), 2 SCC 54, Chandigarh, M.P. State Electricity, Indian Railways Construction Co. Ltd. v. Ajay Kumar, (2003) 4 SCC 579 and Hindustan Motors Limited v. Tapan Kumar Bhattacharya, (2002) 6 SSC 41*** held that award of full back wages, though statutorily sanctioned, was not an inevitable appendage to reinstatement, in every case of illegal retrenchment/termination, and that the competing interests of the management and the workman had to be borne in mind while determining the quantum of back wages to be awarded.

13 Subsequently, however, the view of the Supreme Court has sharply swung from the theory of "reinstatement with back wages (in whole or in part)" to the theory of "lump sum compensation". This swing of judicial thought has been definitively captured in the following passages from the judgment in ***Senior Superintendent Telegraph (Traffic) v Santosh Kumar Seal, (2010) 6 SCC 773:***

“9. In the last few years it has been consistently held by this Court that relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate. (See **U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey** [(2006) 1 SCC 479 : 2006 SCC (L&S) 250] , **Uttaranchal Forest Development Corpn. v. M.C. Joshi** [(2007) 9 SCC 353 : (2007) 2 SCC (L&S) 813] , **State of M.P. v. Lalit Kumar Verma** [(2007) 1 SCC 575 : (2007) 1 SCC (L&S) 405] , **M.P. Admn. v. Tribhuban** [(2007) 9 SCC 748 : (2008) 1 SCC (L&S) 264] , **Sita Ram v. Moti Lal Nehru Farmers Training Institute** [(2008) 5 SCC 75 : (2008) 2 SCC (L&S) 71] , **Jaipur Development Authority v. Ramsahai** [(2006) 11 SCC 684 : (2007) 1 SCC (L&S) 518] , **GDA v. Ashok Kumar** [(2008) 4 SCC 261 : (2008) 1 SCC (L&S) 1016] and **Mahboob Deepak v. Nagar Panchayat, Gajraula** [(2008) 1 SCC 575 : (2008) 1 SCC (L&S) 239] .)

10. In a recent judgment authored by one of us (R.M. Lodha, J.) in **Jagbir Singh v. Haryana State Agriculture Mktg. Board** [(2009) 15 SCC 327 : (2010) 1 SCC (L&S) 545] , the aforesaid decisions were noticed and it was stated: (SCC pp. 330 & 335, paras 7 & 14)

“7. It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of

cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wages has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and a permanent employee."

14. Subsequently, there have been a slew of decisions, reiterating the above principle. Many such decisions were noticed, by the Supreme Court, speaking through T.S.Thakur, J. (as His Lordship then was), in ***Bhavnagar Municipal Corpn v Jadeja Govubha Chhanubha, (2014) 16 SCC 130***. Paras 9 to 15 of the report, which distil the above principle as enunciated in pronouncement after pronouncement, read thus:

"9. The only question that remains to be examined in the above backdrop is whether reinstatement of the respondent as a Conductor is imperative at this late stage. We say so because the appellant claims to have worked for a period of just about 18 months that too nearly three decades ago. The respondent today may be past fifty if not more. The Transport Department

where he was working appears to have been wound up and transport work outsourced. That apart, this Court has in a series of decisions held that the illegality in an order of termination on account of non-payment of retrenchment compensation does not necessarily result in the reinstatement of the workman in service. This Court has, in cases where such termination is found to be illegal, directed compensation in lieu of reinstatement. We may at this stage refer to some of those decisions.

10. In **Mahboob Deepak v Nagar Panchayat, Gajraula, (2008) 1 SCC 575**, this Court held that since the appellant had worked only for a short period, interest of justice would be subserved if the direction for reinstatement was modified and compensatory payment of Rs 50,000 in lieu thereof directed to be substituted. Similarly in **Sita Ram v. Moti Lal Nehru Farmers Training Institute, (2008) 5 SCC 75**, this Court took into consideration the period during which the services were rendered by the workman and instead of reinstatement directed a lump sum payment of Rs 1,00,000 in lieu thereof.

11. In **GDA v. Ashok Kumar, (2008) 4 SCC 261**, this Court made a similar order as is evident from the following passage: (SCC p. 265, paras 21-22)

“21. We are, therefore, of the opinion that the appellant should be directed to pay compensation to the first respondent instead and in place of the relief of reinstatement in service.

22. Keeping in view the fact that the respondent worked for about six years as also the amount of daily wages which he had been getting, we are of the opinion that the interest of justice would be subserved if the appellant is directed to pay a sum of Rs 50,000 to the first respondent.”

(emphasis supplied)

12. To the same effect is the decision of this Court in **Jagbir Singh v. Haryana State Agriculture Mktg. Board**, (2009) 15 SCC 327 wherein this Court held that while awarding compensation in lieu of reinstatement a host of factors should be kept in mind. The Court said: (SCC p. 335, paras 17-18)

“17. While awarding compensation, the host of factors, inter alia, manner and method of appointment, nature of employment and length of service are relevant. Of course, each case will depend upon its own facts and circumstances.

18. In a case such as this where the total length of service rendered by the appellant was short and intermittent from 1-9-1995 to 18-7-1996 and that he was engaged as a daily wager, in our considered view, a compensation of Rs 50,000 to the appellant by Respondent 1 shall meet the ends of justice.”

13. Reference may also be made to the decision of this Court in **Telegraph Deptt. v. Santosh Kumar Seal**, (2010) 6 SCC 773, wherein this Court referred to the previous decisions on the subject to declare that even when a retrenchment order passed in violation of Section 25-F may be set aside, reinstatement need not necessarily follow as a matter of course. The following passage from the decision is apposite: (SCC p. 777, para 10)

“10. ... ‘14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be

proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and a permanent employee.’ (Jagbir Singh v. Haryana State Agriculture Mktg. Board, (2009) 15 SCC 327, SCC p. 335, para 14)”
(emphasis supplied)

14. To the same effect is the decision of this Court in **Incharge Officer v. Shankar Shetty, (2010) 9 SCC 126**, wherein this Court said: (SCC p. 129, para 7)

“7. We think that if the principles stated in Jagbir Singh v. Haryana State Agriculture Mktg. Board, (2009) 15 SCC 327 and the decisions of this Court referred to therein are kept in mind, it will be found that the High Court erred in granting relief of reinstatement to the respondent. The respondent was engaged as a daily wager in 1978 and his engagement continued for about 7 years intermittently up to 6-9-1985 i.e. about 25 years back. In a case such as the present one, it appears to us that relief of reinstatement cannot be justified and instead monetary compensation would meet the ends of justice. In our considered opinion, the compensation of Rs 1,00,000 (Rupees one lakh) in lieu of reinstatement shall be appropriate, just and equitable.”

(emphasis supplied)

15. The case at hand, in our opinion, is one such case where reinstatement must give way to award of compensation. We say so because looking to the totality of the circumstances, the reinstatement of the respondent in service does not appear to be an acceptable option. Monetary compensation, keeping in view the length of service rendered by the respondent, the wages that he was receiving during that period which according to the evidence was around Rs 24.75 per day should sufficiently meet the ends of justice. Keeping in view all the facts and circumstances, we are of the view that award of a sum of Rs 2,50,000 (Rupees two lakhs fifty thousand only) should meet the ends of justice."

15. The most recent instance of a reiteration of the "lumpsum compensation" principle, perhaps, is the decision in ***Rashtrasant Tukdoji Maharaj Technical Education Sanstha v Prashant Manikarao Kubitkar, MANU/SC/0745/2017***, which holds thus:

"2. The Respondent workman had worked under the Appellant for a period of two years and three months whereafter he was terminated on 1st June, 1994. Judicial opinion has been consistent that if the termination is found to be contrary to Sections 25F and 25G of the Industrial Disputes Act, 1947 reinstatement in service is not the rule but an exception and ordinarily grant of compensation would meet the ends of justice.

3. The Respondent workman in the present case had worked for a period of two years and three months and that apart he had approached the labour Court after 13 years. Taking into account the totality of the facts and circumstances of the case we are of the view that the order of the labour Court and the High Court ought to be modified by granting compensation of Rs. 1,00,000/- (Rupees one lakh) in lieu of reinstatement without back wages as ordered. It is ordered accordingly."
(Emphasis supplied)

16. The contention, of Mr. Umesh Sharma, that his clients ought to have been reinstated with full back wages cannot, therefore, be accepted. No exception can be found, with the decision of the Labour Court, to restrict the relief, granted to the workman, to award of lump sum compensation.

17. There is, however, substance in the contention of Mr. Umesh Sharma that the compensation awarded was inadequate. The respondent has, apparently, acknowledged the fact that the termination

of the petitioner-workmen, was unjustified, as is obvious from the fact that it neither chose to lead evidence, nor contest the proceedings before the Labour Court, nor did it challenge the move for setting aside the order dated 14th January 2000 proceeding against it *ex parte*, nor has it chosen to either challenge the impugned award of the Labour Court or even enter appearance or participate in the present proceedings before this Court.

18. In that view of the matter, this Court is of the opinion that Rs.30,000/- is a grossly inadequate amount, to be awarded as compensation, to the workmen, who had been litigating for a period of 12 years before the Labour Court. Though the present writ petition does not contain a categorical averment that the workmen have not been gainfully employed consequent to their termination/retrenchment, an oblique assertion, to the said effect, may be read in Grounds D & F, in the writ petition which state that there is no material to show that the workmen were employed “during the period of their forced unemployment”. As the respondent has not participated in the present proceedings, and not chosen to enter appearance, this submission, of the petitioner, also stands unrebutted.

19. In view of the above, keeping in view the fact that (i) the petitioners served the respondent for 2 1/2-3 years before they were terminated, (ii) the proceedings before the Labour Court consumed 12 years, (iii) thereafter, the present writ petition has remained pending, in this court, for 13 years, (iv) the respondent has clearly accepted the decision of the Labour Court, (vi) the respondent neither chose to

apply for setting aside the order, dated 14th January 2000, whereby it was proceeded *ex parte*, nor to lead any evidence or participate in the proceedings before the Labour Court and (vi) there is no evidence of the respondent-workmen having been gainfully employed after their termination, and no rebuttal of the contention (though implied) to the contrary in the writ petition, I am of the view that the compensation awarded by the Labour Court deserves to be enhanced to Rs.75,000/-, in the case of each workman.

20. The writ petition is, therefore, disposed of by modifying the impugned award, to the extent of the quantum of lump sum compensation awarded to each of the 50 workmen named in para 10 thereof, which is enhanced to Rs. 75,000/- per workman. The said amount would not carry any interest.

21. The said compensation should be disbursed to each of the 50 workmen within a period of 3 months from today. In case any amount has already been paid to the said workmen, pursuant to the impugned award, such amount shall be adjusted while complying with the above direction.

22. The writ petition is disposed of accordingly.

23. No costs.

C. HARI SHANKAR
(JUDGE)

JULY 27th, 2017
neelam/nitin