

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

Date of Decision: April 27, 2017

+ **W.P.(C) 6311/2010 & C.M.13398/2016**

BALDEV SINGH Petitioner

Through: Ms. S. Janani, Advocate

versus

THE PRESIDENT M/S ARCHANA CINEMA SHOPPING
CENTRE ASSOCIATION & ANR Respondents

Through: Nemo

**CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR**

**JUDGMENT
ORAL**

%

Impugned Award of 13th May, 2010 directs first respondent to pay lump sum compensation of ₹1,25,000/- with interest @ 9% per annum in lieu of reinstatement and back wages to petitioner-workman. The facts as noted in impugned Award need no reproduction for the reason that in this petition, reinstatement instead of lump sum compensation is sought. Petitioner-workman was appointed as Maintenance Officer by first respondent-Management on 7th July, 1986 and without any notice or assigning any reason, his services were terminated on 28th October, 1998. Trial court has held termination of petitioner's service as illegal for want of Inquiry.

In this petition, notice sent to respondent No.1-Management has

been received back with the report of refusal. It is so evident from the order of 4th February, 2011. Vide order of 12th August, 2011, respondent No.1-Management has been proceeded *ex parte*.

Learned counsel for petitioner-workman points out that respondent No.1-Management herein was *ex parte* even before trial court. The precise submission of petitioner's counsel is that in the earlier round of litigation, respondent No.2 herein had challenged the earlier Award of 19th November, 2004 directing petitioner's reinstatement in service with full back wages and a co-ordinate Bench of this Court vide order of 14th December, 2009 had remanded back the matter to trial court to decide as to petitioner-workman herein is entitled to any relief against Management of first respondent herein. So, it is submitted by petitioner's counsel that the scope of remand was only to determine whether there is any liability of respondent No.1 herein to reinstate petitioner in service with back wages and not to change the nature of relief. Nothing else is urged on behalf of petitioner except that reinstatement of petitioner-workman in service with full back wages ought to be granted in the facts and circumstances of this case.

Upon hearing and on perusal of impugned award and the evidence on record, I find that a Coordinate Bench of this Court while remanding this matter had noted that petitioner had rendered 11 years of service and had called upon Trial Court to decide afresh as to whether petitioner is entitled to any relief on account of alleged termination of his service by first respondent herein. Considering the fact that petitioner was drawing consolidated salary of ₹2,400/- per month when his services were

terminated on account of misconduct and the fact that 10 years service was left as even in private employment an employee normally retires at the age of 60 years, I find that petitioner's reinstatement in service is unwarranted as by now he has crossed the age of retirement and because it not the case of petitioner that he is in sound health to effectively work. In such a situation, it is deemed appropriate to award lump sum compensation to petitioner instead of reinstating him in service.

In the considered opinion of this Court, trial court has rightly ordered for grant of compensation in lieu of reinstatement with back wages. However, I find that compensation granted is somewhat on lower side as Supreme Court in *Bharat Sanchar Nigam Limited and Others v. Kailash Narayan Sharma*, (2014) 16 SCC 440 has laid down the parameters for grant of compensation of ₹1.5 lacs in a case where an employee has worked for a period spread over more than 7 years.

In light of the aforesaid, impugned award is modified to the extent of enhancing the compensation amount from ₹1,25,000/- to ₹1,50,000/- while maintaining the rate of interest granted.

Impugned Award is accordingly modified to the extent indicated above and this petition and application are accordingly disposed of while leaving petitioner to bear his own costs.

(SUNIL GAUR)
JUDGE

APRIL 27, 2017
s/neelam