

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

*Date of Decision: December 10, 2018*

+ **W.P.(C) 1075/2007**

D.T.C.

..... Petitioner

Through: Ms. Avnish Ahlawat &  
Mr. N.K.Singh, Advocates

Versus

YAD RAM

..... Respondent

Through: Mr. Rajiv Dewan, Advocate

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

**JUDGMENT**  
**(ORAL)**

The challenge to the impugned Award of 22<sup>nd</sup> April, 2006 by petitioner's counsel is confined to the grant of back wages in view of order of 22<sup>nd</sup> February, 2007.

Petitioner's counsel assails the impugned Award by submitting that back wages ought not be granted as a matter of right, as respondent-workman was gainfully employed elsewhere and so, it is submitted that back wages granted ought to be suitably reduced. In support of his submissions, petitioner's counsel relies upon decision in *U.P.State Brassware Corpn. Ltd. & Anr. Vs. Udai Narain Pandey* (2006) 1 SCC 479 to submit that respondent is entitled to 25% of back wages only.

On the contrary, counsel for respondent-workman supports the

impugned Award and relies upon Supreme Court's decision in *The Life Insurance Corporation of India Vs. Sri Kalappa M.Sankad (D) Thr. LRS & Ors.* 2018 (14) SCALE 103 to submit that learned Tribunal has rightly granted back wages.

Upon hearing and on perusal of impugned Award, material on record and decisions cited, I find that Supreme Court in *Rajasthan State Road Transport Corporation Vs Phool Chand* 2018 SCC OnLine SC 1583 has taken note of the fact that where a party to the proceedings has not pleaded or adduced evidence on the aspect of back wages, then in such a case, grant of full wages for a long period is unjustified. Supreme Court in *Phool Chand (Supra)* has granted 50% of the back wages.

In the considered opinion of this Court, facts of the instant case are akin to the case in *Phool Chand (Supra)*. Applying the ratio of Supreme Court's decision in *Phool Chand (Supra)* to the facts of instant case, impugned Award is modified to the extent of grant of 50% back wages, instead of full back wages.

While entertaining this petition, petitioner had deposited 50% of the awarded compensation. It be released to respondent-workman with interest accrued thereupon, if any, forthwith.

While modifying the impugned Award in aforesaid terms, this petition is disposed of.

**(SUNIL GAUR)**  
**JUDGE**

**DECEMBER 10, 2018**

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