

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

Date of Order: December 10, 2018

+ W.P.(C) 8438/2009

VIJENDER KUMAR

..... Petitioner

Through: Ms. Shobhana Takiar, Advocate

Versus

LABOUR COMMISSIONER & ANR.

..... Respondents

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned Award of 15th July, 2008 hold that termination of petitioner-workman is unjustified but instead of granting reinstatement with back wages, compensation of ₹70,000/- in lieu of reinstatement and back wages, has been granted.
2. Challenge to the impugned Award of 15th July, 2008 by petitioner's counsel is on the ground that petitioner was employed way back in the year 1994 and the allegation against petitioner-workman was of absence from duty, which amounts to misconduct and it does not invite extreme and harsh penalty of termination. It is submitted that petitioner was not gainfully employed elsewhere and so, it is a fit case where reinstatement with full back wages ought to be granted.
3. Despite service, there is no appearance on behalf of respondent.

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4. Upon hearing and on perusal of impugned Award and the material on record, I find that this petition has been entertained qua back wages only and pleadings on back wages are deficient. Supreme Court in *Management, Hindustan Machine Tools Ltd. Vs. Ghanshyam Sharma* 2018 SCC OnLine SC 2254 has reiterated that in such cases, lump sum compensation instead of reinstatement with back wages, ought to be granted. Applying the ratio of Supreme Court's decision in *Ghanshyam Sharma (Supra)* to the facts of instant case, I find that the quantum of compensation granted is adequate and no case for its enhancement or reinstatement with back wages is made out.

5. This petition is accordingly disposed of while upholding the impugned Award.


(SUNIL GAUR)
JUDGE

DECEMBER 10, 2018