

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

*Date of Decision: December 11, 2018*

+ W.P.(C) 3866/2008

D.T.C. THR. ITS CHAIRMAN ..... Petitioner  
Through: Mr. Purvesh Butttan, Advocate

Versus

VIJAY KUMAR ..... Respondent  
Through: Nemo.

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

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

1. Impugned Award of 24<sup>th</sup> October, 2007 directs reinstatement of respondent-workman with continuity of service and full back wages.
2. The challenge to impugned Award is on the legality of grant of full back wages. Petitioner's counsel relies upon Supreme Court's decision in *General Manager, Haryana Roadways Vs. Rudhan Singh* (2005) 5 SCC 591 to submit that no back wages are to be paid to respondent-workman.
3. Respondent's counsel submits that respondent had worked for about six years and was in regular employment and so, payment of back wages to respondent- workman is justified.

4. Upon hearing and on perusal of impugned Award, record of this case and decision cited, I find that in *Rudhan Singh (Supra)*, the workman had worked for less than one year and so, back wages were denied to him, whereas in the instant case, respondent-workman has worked for about six years. Although no evidence has been led by either side on the aspect of respondent-workman being gainfully employed elsewhere, but in view of Supreme Court's decision in *Rajasthan State Road Transport Corporation Vs. Phool Chand* 2018 SCC OnLine SC 1583, 50% of back wages deserve to be granted.
5. 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 granting 50% back wages, instead of full wages to respondent-workman.
6. This petition is accordingly disposed of, while modifying the impugned Award to the aforesaid extent.

(SUNIL GAUR)  
JUDGE

DECEMBER 11, 2018

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