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

% *Date of Judgment: 01st July, 2019*

\+ LPA 203/2019

RAJESH OBEROI ..... Appellant

Through Appellant in person along with Ms. Archana Sharma, Advocate

versus

DELHI INTERNATIONAL AIRPORT LTD. ..... Respondent

Through Mr. Anirudh Bakhru and Mr. Shadman A. Siddiqui, Advocates

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE JYOTI SINGH

G.S. SISTANI, J. ***(ORAL)***

1. Challenge in this appeal is to the order dated 04.12.2018 passed by a learned Single Judge of this Court in a writ petition filed by the respondent herein whereby the order of the Tribunal was assailed. The Tribunal in paras 11 and 12 had passed the following order:

> "11. It is clear from appraisal of the above judgment that application for grant of interim relief is legally maintainable irrespective of the proceedings and what the Tribunal is required to keep in mind is the balancing facts and circumstances and nature of the enquiry held against the workman as well as other relevant circumstances brought on record so as to grant or refuse interim relief. Power to grant interim relief is always there. Simply because there is no specific provision in the Act dealing with the same, would not

bar the court or Tribunal from using its implied or inherent powers to grant such relief so as to meet the ends of justice.

12. As a sequel to my above discussion, it is held that Shri Rajesh Oberoi, the claimant herein, is entitled to interim relief of 50% of the last drawn wages from the date of filing of this application."

2. In a writ petition filed by the respondent herein, the order of the Tribunal was modified by the learned Single Judge of this Court which is reflected in paras 5 and 6 of the order dated 04.12.2018, which we reproduce below:

"5. Upon hearing and on perusal of impugned order, material on record and the decision cited, I find that the Tribunal has noticed the factual and legal position, but has not provided any reasoning to grant 50% of last drawn wages as interim relief to respondent. Whether applicable provision is Section 33(1) or Section 33(2) of the Industrial Disputes Act, 1947, is the subject matter of the main case and is not required to be gone into, while considering the validity of the interim order.

6. Instead of remanding the matter back to the concerned Tribunal to decide the application for interim relief afresh, it is deemed appropriate to put the interim relief on hold while directing the Tribunal to expeditiously conclude the proceedings under Section 33 of the Industrial Disputes Act, 1947 within a period of twelve weeks from the date already fixed by the Tribunal. Such a course is being adopted because petitioner has to tender its evidence on 7th December, 2018 and respondent-Workman has to step into the witness box thereafter to depose. During the course of hearing, this Court was apprised that no other evidence is to be led by the parties except evidence of Inquiry Officer. In these peculiar circumstances, petitioner is permitted to deposit 50% of the

> last drawn wages with the Tribunal within four weeks, as one time measure. Upon such deposit being made, it be converted into FDR and retained by the Tribunal and its release would be subject to outcome of the main case, which the Tribunal has to positively conclude within the aforesaid timeline. To facilitate it, cross-examination of respondent be completed within this month, by granting about half hour or so to petitioner for cross-examining the respondent. Petitioner's cross-examination be also conducted in a similar fashion."

3. Appellant, who appears in person, submits that post the order of termination, he has no source of livelihood and thus the interim order granted by the Tribunal should be continued.

4. Per contra, learned counsel for the respondent submits that a sum of Rs.60,38,828/-, which are retiral benefits of the appellant, are lying unclaimed and respondent would have no objection to release the same. Counsel submits that the proceedings are at the final stage. It is prayed by both the sides that the Tribunal may be requested to complete the proceedings within six weeks.

5. Appellant submits that he is not willing to accept the sum of Rs.60,38,828/- as accepting the same would impact his rights. The appellant, however, is willing to accept this sum of Rs.60,38,828/-, without prejudice to his rights and contentions and submits that it may be clarified that merely because he accepts this amount it would not amount to giving up all his objections and reliefs claimed with respect to the order of termination. The respondent has no objection. It is agreed by the learned counsel for the respondent that in case the appellant succeeds before the Tribunal, the amount would be re-calculated as per the order and out of this sum of Rs.60,38,828/- and

whatever benefits would fall to the share of the appellant would be deducted from this amount.

6. In view of the arrangement so made by both the parties, the present appeal is disposed of. The appellant will accept Rs.60,38,828/- without prejudice to his rights and contentions. It is made clear that accepting this amount will not impact his rights in the pending litigation to giving up any objections and reliefs as claimed by the appellant and in case he succeeds before the Tribunal, any amount received by him will be deducted out of this amount and the balance amount would be refunded by him to the respondent with interest @ 8% per annum. The Tribunal is directed to complete the proceedings within a period of six weeks.

7. With these agreed directions, the appeal stands disposed of.

8. Dasti.

G.S. SISTANI, J

JYOTI SINGH, J

JULY 01, 2019

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