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

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\+ **LPA 277/2019**

M/S GENERAL CABLE ENERGY INDIA PVT. LTD. ..... Appellant

Through: Mr Rama Shankar, Mr L.S. Farooqui and Mr Naveen Kumar Chauhan, Advocates.

versus

RAJESH ANGIRA & ANR. ..... Respondents

Through: Mr S.K. Tripathi, ASC for GNCTD/R-2 with Mr Shashan K. Tiwari, Advocates.

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CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S.MEHTA

O R D E R

% **02.05.2019**

Caveat 439/2019

1. Since the learned counsel for the Respondents have put in appearance, the caveat is discharged.

CM 19539/2019 (exemption)

2. Allowed, subject to all just exceptions.

CM 19540/2019 (delay)

3. For the reasons explained in the application, the delay in filing the appeal is condoned and the application is allowed.

LPA 277/2019 & CM 19538/2019 (stay)

4. This appeal is directed against an order dated 14th February, 2019 passed by the learned Single Judge allowing W.P.(C) No.7958/2012 filed by the Respondents modifying the Award dated 1st November, 2012 passed by the

Labour Court in DID No. 69/10, and directing that the Appellant would pay the Respondent No.1 compensation in the total sum of Rs.11.15 lacs in lieu of reinstatement.

5. The scope of the petition before the learned Single Judge was limited. It was urged by the Respondent No.1 that although he had succeeded in demonstrating that the termination of his services as Salesman Clerk after 22 years of service on 27th January, 2009, by the Appellant was illegal, the Labour Court had only granted the relief of lumpsum compensation of Rs.2 lacs in lieu of reinstatement.

6.The Respondent No.1 based his plea of the decision of the Supreme Court in ***Deepali Gundu Surwase v Kranti Junior Adhyapak (2013) 10 SCC 324***, ***Delhi Stock Exchange v K.C. Sharma (2002) SCC Online Del 323*** and ***Lt. Col L. Oliver (Retd.) v The Delhi Stock Exchange 2006 SCC Online Del 1649***. It was submitted by the Respondent No.1 that at the time termination of his service, he was drawing a monthly salary of Rs.28,033/- and the compensation should have been at least equivalent to 3.33 years of his monthly salary which worked out to Rs.11,20,200/-. Accordingly, he prayed that after accounting for the sum of Rs.2,65,115/- that he had already received, he should be paid balance of Rs.8.5 lacs.

7. The present Appellant resisted the above plea by submitting that since the Respondent No.1 had already accepted the above sum as compensation, he was estopped from terming as ‘inadequate’. Moreover, the unit where the Respondent No.1 had been employed had remained closed for a considerable period of time.

8. The learned Single Judge noted the finding of the Labour Court that the termination of the Respondent No.1 was found to be illegal and attained finality, since the Appellant had not challenged the Labour Court's award. The Labour Court itself had rejected the plea of the Appellant that its production activities had closed in 2009. The plea of the Appellant that the Respondent No.1 is estopped from claiming a higher sum that Rs.2,65,119/- was rejected by the learned Single Judge since there was nothing to show that the Respondent No.1 had accepted the said amount by way of full and final settlement. Secondly, the Respondent No.1 was a cancer patient and merely because he accepted a meagre sum offered to him for his very survival, it could not be said that he had given up his constitutional rights.

9. Applying the ratio of the decision in ***Delhi Stock Exchange v K.C. Sharma*** (*supra*), the learned Single Judge accepted the plea of the Respondent No.1 that an amount equivalent to 3.33 years of his salary should ideally have been awarded to him. It was under those circumstances that the learned Single Judge directed that the Respondent No.1 was entitled to compensation in the sum of Rs.11.15 lacs, and after accounting the sum already received, he was entitled to receive a further sum of Rs.8.5 lacs within eight weeks, failing which the Appellant would pay simple interest @ 10% per annum on the said sum for the delay in making the payment.

10. Having heard the learned counsel for the Appellant and having perused the record, this Court is satisfied that no grounds have been made out for interference. Indeed, it is not in dispute that the Respondent No.1 had put in

22 years of service with the Appellant as salesman clerk. It is also not in dispute that at the time of his termination he was drawing a monthly salary of Rs.28,033/-. The third fact is that the Appellant never questioned the award of the Labour Court holding his termination to be illegal.

11. In the circumstances, this Court finds that no error having been committed by the learned Single Judge warranting interference.

12. The appeal is accordingly dismissed. The pending application is also dismissed. No costs.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MAY 02, 2019
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