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

Date of Decision :- 01.10.2019

+ W.P.(C) 1643/2017

M/S D.A.V. SENIOR SECONDARY SCHOOL Petitioner
Through: Mr. Mahesh Srivastava, Adv.

versus

MS. GANGA DEVI Respondent
Through: Mr.P.N. Dwivedi, Adv.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present writ petition has been preferred by the management/DAV School assailing the Award dated 17.10.2015 passed by the learned Labour Court-XVII, Karkardooma Courts, Delhi in ID No.55/12/12. Under the impugned Award, the learned Labour Court after holding that the respondent's services were illegally terminated in violation of Section 25F of the Industrial Disputes Act, 1947 on 14.07.2011, had directed the petitioner to pay a lumpsum compensation of Rs.1,50,000/- to the respondent. The Labour Court has further directed that in case the aforesaid compensation is not paid within one month from the date of publication, the same would carry an interest @ 9% p.a.

2. Learned counsel for the petitioner submits that the respondent had not been terminated by the petitioner but had herself abandoned

services on 14.07.2011; notwithstanding its categorical statement before the Labour Court that it was ready and willing to accept the services of the respondent and she could come back and rejoin her duty, the respondent did not join back at the petitioner school. He further submits that the petitioner had even sent two letters by post to the respondent requiring her to join back on duty, to which she failed to respond. He, therefore, contends that the impugned Award holding her termination to be illegal and directing payment of Rs.1,50,000/- as lumpsum compensation to her is wholly unsustainable and liable to be set aside by this Court.

3. On the other hand, learned counsel for the respondent, while supporting the impugned Award, submits that the petitioner had taken wholly false pleas which have been rightly rejected by the Labour Court after considering the evidence led by the parties. He submits that the petitioner's claims that they had sent two letters by speed post to the respondent/workman to join duty could not be proved before the Labour Court. He further submits that the petitioner had deliberately withheld the record, not only at the initial stage but also during the conciliation proceedings and before the Labour Court at the time of adjudication of the industrial dispute. He submits that the respondent was always willing to join back duty and it is only the petitioner who did not permit the respondent to permit her to do so. He, therefore, that the writ petition be dismissed.

4. I have heard the learned counsel for the parties and with their assistance perused the record and I find no merit in the petition.

5. The petitioner's first submission that it was always willing to

take the respondent back in service, as pleaded in its written statement before the Labour Court overlooks the fact that in the very same written statement, the school also took a simultaneous plea that the respondent had already attained the age of 60 years and could, therefore, not be reinstated. The second plea of the petitioner is also equally unmerited as the petitioner was not able to lead any evidence before the Labour Court in support of its plea that the letters allegedly sent to the respondent asking her to rejoin service, were ever served on her. It is thus, evident that both the submissions of the petitioner are wholly unmerited and the petitioner was only trying to take these false pleas to somehow defeat the rights of the respondent as available to her under the law.

6. In view of the settled legal position that a writ Court, while exercising its power under Article 227 of the Constitution of India, is only exercising supervisory power and is not expected to reappreciate the evidence led before the Labour Court unless some perversity is pointed out. Reference in this regard may be made to the decision of the Supreme Court in ***Iswarlal Mohanlal Thakkar v. Paschim Gujarat Vij Co. Ltd.***, [(2014) 6 SCC 434] wherein it was observed as under:-

“15. We find the judgment and award of the Labour Court well reasoned and based on facts and evidence on record. The High Court has erred in its exercise of power under Article 227 of the Constitution of India to annul the findings of the Labour Court in its award as it is well settled law that the High Court cannot exercise its power under Article 227 of the Constitution as an appellate court or reappreciate evidence and record its findings on the contentious points. Only if there is a serious error of law or the findings recorded suffer from

error apparent on record, can the High Court quash the order of a lower court. The Labour Court in the present case has satisfactorily exercised its original jurisdiction and properly appreciated the facts and legal evidence on record and given a well reasoned order and answered the points of dispute in favour of the appellant. The High Court had no reason to interfere with the same as the award of the Labour Court was based on sound and cogent reasoning, which has served the ends of justice.

16. *It is relevant to mention that in Shalini Shyam Shetty v. Rajendra Shankar Patil [(2010) 8 SCC 329] , with regard to the limitations of the High Court to exercise its jurisdiction under Article 227, it was held in para 49 that:*

“49. (m) ... The power of interference under [Article 227] is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.”

It was also held that:

“49. (c) High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it.”

Thus it is clear, that the High Court has to exercise its power under Article 227 of the Constitution judiciously and to further the ends of justice.

17. *In Harjinder Singh v. Punjab State Warehousing Corpn. [(2010) 3 SCC 192 : (2010) 1 SCC (L&S) 1146] this Court held that:*

“20. ... In view of the above discussion, we hold that the learned Single Judge of the High Court committed serious jurisdictional error and unjustifiably interfered with the

award of reinstatement passed by the Labour Court with compensation of Rs 87,582 by entertaining a wholly unfounded plea that the appellant was appointed in violation of Articles 14 and 16 of the Constitution and the Regulations.”

7. In the present case, I find that the Award of the Labour Court is well reasoned and is based on a due appreciation of the facts as emerging from the evidence led before it. There is, therefore, no reason for me to interfere with the impugned Award which suffers from no infirmity.

8. For the aforesaid reasons, I do not find any merit in the writ petition and the same is accordingly dismissed being meritless.

9. As the petitioner has already deposited the awarded amount pursuant to the order dated 22.02.2017, the Registry is directed to forthwith release the amount deposited by the petitioner in favour of the respondent with up-to-date interest accrued thereon.

REKHA PALLI, J

OCTOBER 1, 2019
‘SDP’