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

% **Date of Decision: 04th July, 2019**

+ W.P.(C) 7408/2007

RAM BHOOL

..... Petitioner

Through: Dr. N. Gautam and Ms. Swati
Gautam, Advocates.

versus

D.T.C.

..... Respondent

Through: Ms. Manisha Tyagi, Advocate.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T (O R A L)

1. The petitioner has challenged the award of the Labour Court whereby the termination of the petitioner by the respondent was upheld.
2. The petitioner joined the respondent as Assistant Fitter on 25th June, 1982. On 05th February, 1993, the petitioner was served with a charge sheet alleging absence from the duty without prior permission from 27th October, 1992 to 20th November, 1992 and again from January, 1992 to 25th October, 1992 and he neither sought any prior permission nor submitted any application for 22 out of 121 days.
3. The respondent conducted an enquiry which resulted in the enquiry report dated 09th March, 1993. The enquiry officer held the petitioner guilty of unauthorized absence of 22 days without any application, information or sanction. The enquiry officer held that the leave other than 22 days was sanctioned by DTC. The competent authority considered the enquiry report and proposed the punishment of removal from service vide show cause

notice dated 18th March, 1993. Vide order dated 08th June, 1995, the competent authority passed the order of removal from service against the petitioner. The petitioner filed an appeal dated 13th July, 1995 against the order of removal before the Chief General Manager to which he received no reply.

4. The petitioner raised an industrial dispute which resulted in the award dated 22nd August, 2003 by which the Labour Court held that the termination was violative of Section 25F of Industrial Disputes Act and therefore, the termination was illegal and unjustified. The learned Tribunal awarded reinstatement in service along with 40% back wages to the petitioner. This award was successfully challenged by the respondent in the W.P.(C) 6170 of 2004 which was disposed of vide order dated 08th December, 2004 holding that award dated 22nd August, 2003 was based on an incorrect proposition of law and the same was set aside and was remanded back to the Labour Court for fresh consideration.

5. After the remand, both the parties led the evidence and thereafter, a fresh award was passed by the Labour Court on 08th December, 2006 by which the learned Labour Court upheld the termination of the petitioner by the respondent.

6. Learned counsel for the petitioner urged at the time of hearing that the punishment of termination imposed by the respondent was grossly disproportionate to the charge. It was submitted that the termination of the petitioner for 22 days of unauthorized absence was grossly disproportionate and warrants interference by this Court.

7. Learned counsel for the respondent urged at the time of hearing that the petitioner remained absent for 121 days, out of which there was no

application, information or sanction for 22 days and the balance leave was treated without pay.

8. This Court is of the view that the termination of the petitioner for 22 days of unauthorized absence is grossly disproportionate. The petitioner is present in Court and he had already attained the age of superannuation. In that view of the matter, the petitioner is not entitled to the relief of reinstatement.

9. Learned counsel for the petitioner submits that fair compensation be awarded to the petitioner in the present case.

10. In the peculiar facts of this case, this Court considers the compensation of Rs.75,000/- to be fair and reasonable. The writ petition is allowed and the compensation of Rs.75,000/- is awarded to the petitioner.

11. The petitioner has savings bank account No.91192010048439 with Syndicate Bank, Wazirpur Branch, Delhi (IFSC Code:-SYNB0009119).

12. The respondent is directed to transfer the compensation amount of Rs.75,000/- to the petitioner's aforesaid savings bank account by RTGS within four weeks. The respondent is also directed to transfer the outstanding dues, if any, with respect to the termination to the petitioner within four weeks.

13. List for reporting compliance on 30th August, 2019.

14. Copy of this judgment be given *dasti* to learned counsels for the parties under signature of Court Master.

J.R. MIDHA, J.

JULY 04, 2019

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