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

Date of decision: 03.09.2019

+ LPA 777/2017
PREM KUMAR

..... Appellant

Through: Mr. Kushagra Bansal, Advocate with
Mr. Rajkumar Jain, Advocate.

Versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Bharathi Raju, CGSC for
respondent No.1.
Mr. Jasbir Bidhuri, Advocate for
respondent No.2.

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

G.S.SISTANI, J. (ORAL)

1. The appellant has filed the present appeal being aggrieved by order dated 24.10.2016 passed by the learned Single Judge.
2. The appellant before us was a temporary employee who was hired as a helper in the Human Resource Development Group of the Council of Scientific & Industrial Research on 01.07.1997. Appellant was terminated on 29.09.2000. Legal notice was issued by the appellant on 11.10.2000 claiming reinstatement along with payment of full backwages, which were denied by the respondents.
3. The Delhi High Court allowed the writ petition W.P.(C) No.1809/2004 filed by the appellant and directed the Union of India to make a reference of the dispute to the Industrial Tribunal. Statement of claim was filed before the Central Industrial Tribunal cum Labour Court on 20.07.2005. The appellant filed his affidavit by

way of evidence on 04.07.2006. Despite opportunities having been granted however, no evidence was led by the respondents.

4. Accordingly the Tribunal passed an *ex parte* Award dated 24.08.2006 in favour of the workman holding that he worked continuously from 01.07.1997 till 29.09.2000. By the said Award, the appellant was reinstated in service with benefits and payment of 50% back wages. This *ex parte* Award was challenged by filing a writ petition bearing W.P.(C) No. 5754/2007 and the matter was remanded back to the Tribunal by order dated 02.11.2007. It may be noted that the aforesaid order in W.P.(C) No.5754/2007, this court had recorded the following:-

“In view of the arrangement arrived at between the parties, it is directed that the respondent/workman will join the (HRDG), CSIR Complex, Pusa Road, New Delhi (petitioner) through a contractor on 5.11.2007 and will report on duty at 10:00 a.m. The petitioner is directed to keep the workman in employment through contractor till the disposal of the proceedings before the Labour Court. In view of the arrangement arrived at between the parties, nothing further survives in the writ petition. The ex parte award dated 28.8.2006 (sic, 24.08.2006) is set aside; and the matter is remanded back to the Labour Court in the above terms.

List the matter on 10.12.2007 before the labour court, on which date parties are directed to appear before the Labour Court.

Petition is disposed of. DASTI.”

5. Pursuant to order passed by this court on 02.11.2007, an Award was made on 06.10.2015 and the management was directed to pay compensation of Rs.50,000/- to the workman with no order regarding reinstatement.

6. Learned counsel for the appellant has primarily submitted before us that the Tribunal and the learned Single Judge has failed to take into consideration the settled law and only awarded compensation of Rs.50,000/-. Counsel has relied upon a judgment in the case of ***State of U.P. vs. Parvez Akhtar 2015 (2) SCT 816 (SC)*** wherein a sum of Rs.5 lacs was awarded in somewhat similar circumstances.

7. Counsel for the respondents has opposed the appeal on the ground that there is no infirmity in either the Award or the order passed by the learned Single Judge. Counsel submits that the appellant had only worked for a period of three years, which is an admitted fact on perusal of the list of dates submitted by the appellant alongwith the appeal and also in para 2 of the statement of claim, wherein it has been categorically stated that the appellant had worked from 01.07.1997 till 29.09.2000. He further submits that the appellant was only a casual worker.

8. We have heard counsel for the parties. The first question which arises for our consideration is the period of service rendered by the appellant herein. Not only the list of dates, even in the statement of claim in paras 2 and 10 which are reproduced below, a categorical assertion has been made that the appellant had worked from 01.07.1997 to 29.09.2000. Para Nos. 2 and 10 of the statement of claim are reproduced as under:-

“2. That Sh. Prem Kumar S/o Dilbagh Singh, hereinafter referred to as the workman, was initially employed as helper on 01.07.1997 in the Human Resource Development Group of council for Scientific and Industrial Research, hereinafter

referred to as the management. The workman was directed to work under Sh. S.C. Dhawan, Scientist, Human Resource Development Group. It is submitted that the workman continued to serve the organization in the Human Resource Development Group of CSIR without any break and to the entire satisfaction of the management till 29.09.2000, when the management illegally terminated his services without assigning any reason for the same.

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10. That the workman concerned served the management continuously and without any break w.e.f. 01.07.1997 to till 29.09.2000. It is pertinent to mention herein that the officers of the management also terminated the services of all the workmen on the same day.”

9. The next question which arises for our consideration relates to the quantum of amount to be awarded to the workman. It is not in dispute that the appellant was a temporary employee of the respondents who worked for only three years through an independent contractor since 2007.

10. We are of the view that though there is no infirmity either in the Award or in the order of learned Single Judge, however to meet the ends of justice we deem it appropriate to increase the amount of compensation from Rs.50,000/- to Rs.1 lakh, to be paid by the respondents to the appellant within a period of six weeks from today.

11. Appeal is disposed of in the above terms.

G.S.SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

SEPTEMBER 03, 2019/Ne