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

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Date of Decision: 01st November, 2019

+ W.P.(C) 13742/2018 & CM Appls. 53609/2018, 47344/2019

DELHI INTERNATIONAL AIRPORT LTD. Petitioner

Through: Mr.Anirudh Bakhru, Mr.S.A.
Siddiqui, Mr.Abhishek Pati,
Advocates

versus

ARCHANA SHARMA Respondent

Through: In person

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 order dated 16th October, 2018 whereby the learned Industrial Tribunal awarded 50% of last drawn wages to the respondent as an interim relief.
2. The petitioner employed the respondent on 24th September, 2007 on the post of Customer Service Coordinator.
3. On 20th April, 2015, the petitioner issued a show cause to the respondent for insubordination, creating ruckus, using unparliamentary and abusive language. The respondent submitted the reply to the show cause on 28th April, 2015.
4. The petitioner conducted a domestic enquiry against the respondent.

The Enquiry Officer held the respondent guilty of the charges in the Enquiry report dated 20th February, 2017.

5. The petitioner issued a show cause notice dated 03rd March, 2017 to the respondent to show cause why she be not dismissed on the charges of misconduct to which respondent submitted her reply dated 07th March, 2017. The petitioner issued another show cause dated 09th May, 2017.

6. On 08th June, 2017, the petitioner dismissed the respondent from service. The petitioner paid three months salary to the respondent.

7. The petitioner filed an application under Section 33(2)(b) of the Industrial Disputes Act before the Industrial Tribunal seeking *ex-post facto* approval of the dismissal as a collective Industrial Dispute was pending before the Tribunal. The respondent filed an application for interim relief before the Industrial Tribunal on 10th November, 2017 which was contested by the petitioner.

8. Vide impugned award dated 16th October, 2018, the Industrial Tribunal allowed the respondent's application and awarded 50% of the last drawn wages to the respondent as an interim relief.

9. Learned counsel for the petitioner urged at the time of hearing that the Industrial Tribunal adjudicated only the legal issue of the maintainability of the interim relief application but failed to adjudicate the factual aspect as to whether the present case was fit for granting interim relief. It is submitted that the impugned order does not contain any discussion with respect to the factual contentions raised by the petitioner in the reply nor any findings have been recorded in respect thereof. It is further submitted that similar order was passed by the Industrial Tribunal on the same date i.e. 16th October, 2018 in I.D. No.90/2016 titled ***Delhi International Airport (P) Ltd. v.***

Rajesh Oberoi which was set aside by this Court in W.P.(C) 13055/2018 on 04th December, 2018 and the Division Bench rejected the challenge in appeal.

10. The respondent present in person urged at the time of hearing that the impugned order is well reasoned order and the Industrial Tribunal has rightly awarded 50% last drawn wages to the respondent as an interim relief.

Findings & Discussions

11. In paragraph No.11 of the impugned order, the Industrial Tribunal, after discussing the contentions of the parties, held that the application for interim relief was legally maintainable. However, after recording the findings on the legal issue, the learned Tribunal awarded interim relief of 50% of the last drawn wages in paragraph No.12 without discussing the factual objections raised by the petitioner and without recording any reasoned finding in respect thereof. Paragraphs No.11 and 12 of the impugned order dated 16th October, 2018 are reproduced hereunder:-

“11. It is clear from appraisal of the above judgement 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 nor bar the court of 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 Ms. Archana Sharma, the claimant herein, is entitled to interim relief of 50% of the last drawn wages from the date of filing of this application.”

12. This Court is of the view that recording of reasons is mandatory and

impugned order dated 16th October, 2018 is liable to be set aside at this short ground alone. Reference be made to *Nidhi Kaushik v. Union of India*, (2013) 203 DLT 722, in which the Division Bench of this Court examined the principles relating to the recording of reasons.

13. The writ petition is allowed and impugned award dated 16th October, 2018 is hereby set aside. The respondent's application for interim relief is remanded back to the Industrial Tribunal for fresh adjudication after hearing both the parties. Pending applications are also disposed of.

14. The petitioner is permitted to urge all the grounds raised in this petition before the learned Industrial Tribunal which shall pass a fresh reasoned order after hearing both the parties.

15. Both the parties shall appear before the learned Industrial Tribunal on 20th November, 2019 when the Industrial Tribunal shall fix a date for hearing the parties. Both the parties are permitted to file brief note of submissions not exceeding five pages along with copies of relevant documents/judgments on which they wish to rely before the Industrial Tribunal.

16. The Industrial Tribunal shall endeavour to decide the remanded application within a period of three months from 20th November, 2019. The Industrial Tribunal shall also expedite the hearing and disposal of the application under Section 33(2)(b) of the Industrial Disputes Act and is at liberty to decide the same along with the remanded application, if the pleadings and evidence are complete by that time.

17. It is clarified that nothing recorded here shall be construed a final expression on the merits of this case which shall be considered by the Industrial Tribunal.

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

J.R. MIDHA, J.

NOVEMBER 01, 2019

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