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

+ LPA 84/2020

M/S D A V SENIOR SECONDARY SCHOOL

..... Appellant

Through: Mr. Om Prakash Gupta, Mr. Radhey
Shyam, Advs.

versus

GANGA DEVI

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

17.02.2020

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CM APPL. 5855/2020

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CM APPL. 5857/2020

Since we have heard learned counsel for the appellant and we are not inclined to issue notice in the appeal, we do not consider it necessary to deal with this application. Dismissed.

LPA 84/2020 & CM APPL. 5856/2020

The present appeal is directed against the order dated 01.10.2019, passed the learned Single Judge in W.P. (C.) No.1643/2017. The learned Single Judge has dismissed the said writ petition preferred by the appellant

to assail the award dated 17.10.2015, passed by the learned Labour Court – XVII, Karkardooma Courts, Delhi in ID No. 55/12/12. The Labour Court, by the said award held the termination of the respondent's services to be in violation of Section 25F of the Industrial Disputes Act, 1947 and directed the appellant to pay a lump sum compensation of Rs.1,50,000/- to the respondent. In case, the said amount was not paid to the respondent, it was to carry interest @ 9% per annum.

The case of the appellant/ writ petitioner was that the respondent had not been terminated but that she had abandoned her services on 14.07.2011. The appellant also claimed that it was ready and willing to accept the services of the respondent and that she could come back and re-join her duties and the appellant even sent two letters to the respondent requiring her to join back on duty. However, she had failed to respond to those letters.

The aforesaid statements of the appellant were rejected by the Labour Court and also by the learned Single Judge. Before the Labour Court, the appellant did not lead any evidence to substantiate its plea of having sent any communications to the respondent to re-join her duties.

The learned Single Judge has also noticed that though the appellant had stated in their written statement that they are ready and willing to take back the respondent and, at the same time they had also claimed that she was above 60 years of age, which is the age of superannuation. Thus, the offer made by the appellant was hollow. The Labour Court found that the respondent was 54 years old at the time of her termination. In the aforesaid circumstances, the Labour Court passed its award as aforesaid. The learned Single Judge has not found merit in the submissions of the appellant and, in our view, rightly so.

The appellant failed to establish that the respondent had abandoned her services; that she was already 60 years of age; that the appellant had sent two communications to the respondent requiring her to re-join her duties. Admittedly, there is no compliance of Section 25F of the Industrial Disputes Act. In these circumstances, we do not find any reason to interfere with the impugned order.

Dismissed.

VIPIN SANGHI, J

SANJEEV NARULA, J

FEBRUARY 17, 2020

N.Khanna