

\$~52

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

%

Decided on: 24.02.2020

+ W.P.(C) 1983/2020, CM APPL. 6927/2020 & CM APPL. 6928/2020
M/S KODAR INDUSTRIES (PARTNERSHIP FIRM) Petitioner

Through: Mr. Prashant Kumar Mittal, Adv.

versus

SANDEEP CHOPRA

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This petition impugns the award dated 30.07.2019 passed by the learned Labour Court in LIR No 2965/2016, on the ground that the workman has been unmeritoriously granted Rs. 60,000 towards back wages. In the impugned order the rationale for so is, as under:-

“ Issue No. 7

28. As far as relief part is concerned, the workman has made a prayer in statement of claim that he is unemployed since the date of termination of his service and as such the management be directed to reinstate him in service with full back wages including benefits of continuity of service and all other consequential benefits., However, a perusal of record reveals that the management has filed award dated 11.01.2018 passed by Sh. Lokesh Kumar Sharma, Ld. POLC-XK, Dwarka Courts, Delhi, which is Ex.MW2/A. It is further revealed that in that

case the workman stated that his services were terminated by the management (some other company) on 23.09.2013. It is further revealed that the management has also filed photocopy of reference as well as statement of claim of the workman in LER. No. 8929/16 titled as Sandeep Chopra Vs. M/s ACE Footmark Pvt. Ltd., which are Ex.MW3/A and Ex.MW3/B respectively. The workman in his claim in case titled as Sandeep Chopra Vs. M/s ACE Footmark Pvt. Ltd. has stated that his services were terminated on 20.12.2011. The workman in the present claim has stated that his services were terminated by the management on 18.03.2008. From these facts it is clear that the workman would be gainfully employed somewhere else, therefore, the workman cannot be ordered to be reinstated and a compensation in lieu of his reinstatement would be a better option. Therefore, keeping in view all these facts and also keeping in view of the aforesaid law points, this court deems it appropriate to grant a lump sum compensation to the workman in lieu of his reinstatement. The total service tenure of the workman with the present management comes to around 03 years and 09 months. His admitted salary was Rs. 12500/- per months. Accordingly, this court grants a lump sum compensation of Rs. 60,000/- (Rupees Sixty Thousand only) to the workman in lieu of his reinstatement, back wages and consequential benefits. The amount of compensation shall be paid to the workman by the management within one month from the date when this award becomes enforceable failing which the amount shall carry an interest @ 9% p.a. from the date it becomes due till the time it is realized. Reference is answered and disposed off accordingly.”

2. The learned counsel for the petitioner contends that the workman had himself worked at various places, however, he is unable to show as to what is the period for which the dismissed workman was beneficially engaged elsewhere. Simply because the workman may have pursued the case against other managements, would not necessarily mean that he was gainfully employed with them or he had a valid claim against them. None of the

aforesaid adjudication would mean that he was gainfully engaged for the aforesaid period, for which he has been rightly awarded a lumpsum amount of Rs. 60,000 for 3 years and 9 months @ Rs. 12,500/- per month which otherwise would be Rs. 5,62,500/-.

3. In view of the above, there is no reason to interfere with the impugned order. There is no merit in the petition. It, alongwith pending applications, is dismissed.

FEBRUARY 24, 2020

RW

NAJMI WAZIRI, J



न्यायमेव जयते