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

+ W.P.(C) 18275/2004

D.T.C. Petitioner

Through: Ms. Manisha Tyagi, Advocate.

versus

VED PRAKASH EX-CONDUCTOR Respondent

Through: Mr. Atul T.N and Mr. Devendra
Verma, Advocates.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **04.03.2020**

CM APPL. 44849/2019 (by resp. for early hearing)

This application seeks early hearing of the petition.

For the reasons mentioned in the application, it is allowed.

The application stands disposed-off.

W.P.(C) 18275/2004

At joint request, the petition is taken up for disposal.

This petition impugns the award of the learned Labour Court dated 02.04.2002 passed in I.D. No. 7/96, directing the petitioner to reinstate the workman in service with full back wages. His services were terminated on 22.02.1983, after he had worked for nearly a year. The challenge to the said termination was made roughly after sixteen years. This evidently is a case of Rip Van Winkle, waking up after sixteen years to take recourse to law.

The case has already become stale apropos the claim for back wages because the respondent, obviously, must have found some way to sustain himself in the interim. While the termination was found to be illegal and he was reinstated in service with continuity in service thereafter, the award of full back wages is erroneous. The workman was reinstated in the service on 17.06.2003 and he has since superannuated on 30.06.2017.

Ordinarily when the termination is found illegal, the reinstatement in service with full back wages should be the sequitur. However, the non-agitation of unemployment for sixteen years remains unexplained.

In the circumstances, the grant of full back wages is reduced to 20%. The claimant-workman has already recovered an amount of Rs. 7,97,294/-, through recovery proceedings and this writ petition was filed two years after the date of the award.

According to the letter of the petitioner dated 16.01.2017, he would be entitled to pensionary benefits. In the circumstances, after deducting 80% of the amount paid to the workman, the pensionary amounts and post-retiral benefits shall be paid to him.

The petition is disposed-off in terms of the above.

NAJMI WAZIRI, J

MARCH 04, 2020

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