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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 25th November, 2021
+ **W.P.(C) 10953/2020**
M/S G4S SECURE SOLUTIONS INDIA PVT. LTD. Petitioner
Through: Mr. Gulshan Chawla & Ms. Smiriti
Kumari, Advocates (M-9899737099)
versus
SH. SANJEEV PAWAR Respondent
Through: Mr. Ajit Kumar Singh, Advocate.
4 **WITH**
+ **W.P.(C) 10977/2020**
G4S SECURE SOLUTION (INDIA) PVT. LTD Petitioner
Through: Mr. Gulshan Chawla & Ms. Smiriti
Kumari, Advocates
versus
AJEET SINGH CHOUHAN Respondent
Through: Mr. Ajit Kumar Singh, Advocate.
5 **WITH**
+ **W.P.(C) 10979/2020**
M/S G4S SECURE SOLUTIONS INDIA PVT. LTD. Petitioner
Through: Mr. Gulshan Chawla & Ms. Smiriti
Kumari, Advocates
versus
SH. HARENDER MALIK Respondent
Through: Mr. Ajit Kumar Singh, Advocate.
6 **AND**
+ **W.P.(C) 11198/2020**
M/S G4S SECURE SOLUTIONS INDIA PVT. LTD. Petitioner
Through: Mr. Gulshan Chawla & Ms. Smiriti
Kumari, Advocates
versus
SH. HARIPAL SINGH Respondent
Through: Mr. Ajit Kumar Singh, Advocate.
CORAM:
JUSTICE PRATHIBA M. SINGH
Prathiba M. Singh, J. (Oral)

1. This hearing has been done in physical Court. Hybrid mode is

permitted in cases where permission is being sought from the Court.

2. These petitions have been filed challenging the impugned Awards dated 18th January, 2020, passed by the Presiding Officer, Labour Court- V, Rouse Avenue Courts, Delhi. Vide the said Awards, the Labour Court has awarded reinstatement along with full back wages to all the four Workmen.

3. All four workmen were employed as security guards with the Petitioner/Management. The date of joining and the monthly salary of each of the Workmen is set out herein below:

<i>Workman</i>	<i>Date of Joining</i>	<i>Monthly Salary</i>
Sanjeev Pawar	10 th June 1997	Rs. 6144/-
Ajeet Singh Chouhan	8 th June 1999	Rs. 6084/-
Harender Malik	14 th April 1998	Rs. 6144/-
Haripal Singh	12 th July 2006	Rs. 6084

4. The brief background of the petition is that an incident had occurred in June, 2011 due to which a show cause notice was issued by the Management to the Workmen. To the said show cause notice, replies were filed by the Workmen, and thereafter, on 9th June, 2011, the Management had terminated the services of the Workmen. This termination was challenged before the Labour Court by way of a claim petition that was filed by the Workmen. In the claim petition before the Labour Court, a declaration was sought by the Workmen that the termination was illegal and compensation for unemployment, earned wages along with other legal entitlements was also sought. The prayers that were sought in all these claim petitions are identical and are set out below:

“PRAYER

The claimant prays before this Hon'ble Court that the management has terminated his services on 01.06.2011, illegally, and that the claimant prays for compensation for unemployment, earned wages along with other legal entitlement.”

5. The Management filed its defence to these claim petitions and evidence was also recorded. The case of the Management in their written statement was that the Workmen were habitual drunkards and had involved themselves in physical fights with the guards and the staff. They had also allegedly misbehaved with the seniors. On behalf of the Management, evidence was led by the Authorized Representative. It was claimed by the Management that one Mr. V.K. Pandey was threatened and assaulted and a complaint was also lodged with the police station. It was pursuant to the said complaint that the termination letter was issued.

6. The Labour Court, in the impugned judgement, observed that the Management did not place on record any documents to show that threat was extended to Mr. V.K. Pandey. The summary of the Management's evidence as contained in Labour Court's order is set out below:

“16. The management examined Sh Ghanshyam Singh Sisodiya, its official as MW1 who also deposed on the lines of the defence taken in the reply to the claim and also proved on record show cause notice dated 02.06.2011 as Ex.MW1/3 and termination letter dated 09.06.2011 as Ex.MW11 4 besides other documents.

17. During the course of cross examination, he admitted that the claimant was not having any supervisory power.

18. He also admitted that no document has been placed on record to prove that the claimant ever

extended any threat of life to Inspector Sh. V.K. Pandey.

19. The management has also failed to bring any evidence on record to controvert the claim of the claimant that from the date of his alleged termination till date he is gainfully employed.”

It is this Award that has been challenged by the Management.

7. A perusal of the record shows that the show cause notice and the letter of termination specifically mention the incident which took place. It is noticed that although the termination letter was made part of the record, the complaint filed with the police was not placed on record before the Labour Court. The Management could have placed the said complaint filed with the Police Station, Okhla on record, however they did not do so. No other independent evidence was led by the Management to establish that the incident which was alleged had in fact taken place. However, it cannot be completely disbelieved that the incident did not take place at all, considering the details mentioned in the show cause notice as also in the letter of termination.

8. The Workmen in this case were engaged by the Management in 1997-2006 and they worked till 2011 i.e. for a period between 5 to 14 years. It has, however, been ten years since they were terminated from service.

9. Accordingly, considering the fact that there would now have been complete loss of confidence between the Management and Workmen, this Court is of the opinion that the relief which the Workmen ought to be given lump sum compensation, and not reinstatement with full back wages. Recently, the Supreme Court has, in ***Allahabad Bank and ors. v. Krishan Pal Singh (SLP(C) No. 19648/2019, decided on 20th September 2021***),

held:

“8. The directions issued by the High Court of Allahabad for reinstatement were stayed by this Court on 23.08.2019. During the pendency of these proceedings, the respondent – workman had attained age of superannuation. Though, there was strong suspicion, there was no acceptable evidence on record for dismissal of the workman. However, as the workman has worked only for a period of about six years and he has already attained the age of superannuation, it is a fit case for modification of the relief granted by the High Court. The reinstatement with full back wages is not automatic in every case, where termination / dismissal is found to be not in accordance with procedure prescribed under law. Considering that the respondent was in effective service of the Bank only for about six years and he is out of service since 1991, and in the meantime, respondent had attained age of superannuation, we deem it appropriate that ends of justice would be met by awarding lump sum monetary compensation. We accordingly direct payment of lump sum compensation of Rs.15 lakhs to the respondent, within a period of eight weeks from today. Failing to pay the same within the aforesaid period, the respondent is entitled for interest @ 6% per annum, till payment.”

Thus, the Supreme Court has clearly recognised the fact that reinstatement is not an automatic consequence of wrongful termination, especially when the Workman has during the pendency of litigation, not performed any services with the Management. The Supreme Court has accordingly awarded lump sum compensation in such a case, as seen above. Even in ***Ranbir Singh v. Executive Eng. P.W.D. (Civil Appeal No. 4483/2010, decided on September 2, 2021)***, the Supreme Court has similarly held as under:

“6.In other words, we find that reinstatement cannot be automatic, and the transgression of Section

25F being established, suitable compensation would be the appropriate remedy.

7. In such circumstance, noticing that, though the appellant was reinstated after the award of the Labour Court in 2006, the appellant has not been working since 2009 following the impugned order, and also taking note of the fact that the appellant was, in all likelihood, employed otherwise, also the interest of justice would be best subserved with modifying the impugned order and directing that in place of Rs. 25000/- (Rupees Twenty Five Thousand), as lumpsum compensation, appellant be paid Rs.3.25 lakhs (Rupees Three Lakhs and Twenty Five Thousand), as compensation, taking into consideration also the fact that the appellant had already been paid Rs. 25000/- (Rupees Twenty Five Thousand) as compensation.”

Therefore, following the said decisions, this Court is of the opinion that the relief of lump sum compensation may be awarded to the Workmen in the present cases.

10. Vide order dated 4th January 2021, a sum of Rs.2 Lakhs was already directed to be deposited by the Management, which has now earned interest. Let the said amount be released along with the interest accrued thereon (*minus TDS on interest component*) directly to the bank accounts of the Workmen. Further, in each of the cases, considering that the Workmen have been litigating since 2011 and it has taken more than ten years for the dispute to reach its conclusion, a consolidated sum of Rs. 75,000/- is awarded as litigation expenses along with further enhancement of compensation, in favour of each of the Workmen. Let the said amount of Rs.75,000/- each be paid to the Workmen within a period of eight weeks. If the same is paid within eight weeks, the same shall constitute complete satisfaction of the impugned Award dated 18th January, 2020. If, however,

the said amounts are not paid, the Award shall come into operation and the Workmen would be entitled to seek execution of the Award passed by the Labour Court.

11. Let the bank account details of the Workmen be provided to the Id. Counsel for the Petitioner, by Id. Counsel for the Respondents/Workmen within a period of one week from today to effect the payment. If the Management has any difficulty in contacting the Workmen, the payment shall be delivered to the Workmen through Id. Counsel, by way of demand drafts.

12. The present petitions are disposed of in the above terms. All pending applications are also disposed of.

PRATHIBA M. SINGH
JUDGE

NOVEMBER 25, 2021/ *Rahul/Ak*