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

+ **W.P.(C) 13528/2019**

PUNJAB NATIONAL BANK

..... Petitioner

Through: **Mr. Rajat Arora and Mr. Miraj
Kumar, Advocates.**

versus

SHRI VINESH SAH

..... Respondent

Through: **Mr. Krishan Kumar Advocate for
respondent.**

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Date of Decision: 14th September, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present writ petition has been filed challenging the impugned order dated 04.07.2019 whereby the learned CGI in I D No. 39/16 titled as “Dinesh Shah Vs. Circle and Punjab National Bank” allowed the claim petition and directed the bank to reinstate the workman into service with 50% back wages and continuity of service .
2. Learned counsel for the petitioner has challenged the award and has predominantly argued on the issue of the reinstatement. Learned counsel has submitted that as per the latest trend of the judgments delivered by this court and the Supreme Court of India, it has been held



that even if the termination is found to be illegal, the reinstatement is not a rule. It has been submitted that the lump sum compensation has been ordered to be paid by the courts. Learned counsel has relied upon the judgment of “BSNL Vs. Bhuremal”.

3. Learned counsel for the petitioner has also pointed out that the respondent/workman has only worked with the petitioner/management for two–three years.
4. In the case of **BSNL vs. Man Singh** (2012) 1 SCC 558, the Apex Court held that when the termination is set aside because of violation of 25F of the ID Act, it is not necessary that the relief of reinstatement be given as a matter of right.
5. In **Incharge Officer vs. Shankar Shetty** (2010) 9 SCC 126, it was *inter alia* held that in those cases where the workman had worked on daily wage basis, and worked merely for a period of 240 days or 2-3 years and where the termination had taken place many years ago, the recent trend was to grant compensation in lieu of reinstatement.
6. In **BSNL vs. Bhurumal** (*supra*), taking the trend further, the Supreme Court *inter alia* held as under:-

“31. In Deptt. of Telecommunications v. Keshab Deb the Court emphasized that automatic direction for reinstatement of the workman with full back wages is not contemplated. He was at best entitled to one months’ pay in lieu of one month’s notice and wages of 15 days of each completed year of service as envisaged under Section 25-F of the Industrial Disputes Act. He could not have been directed to be regularized in service or granted /given a temporary status. Such a scheme has been held



to be unconstitutional by this Court in A.Umarani v. Registrar, Coop.Societies and State of Karnataka v. Umadevi .

32. It was further submitted by the learned counsel for the appellant that likewise, even when reinstatement was ordered, it does not automatically follow full back wages should be directed to be paid to the workman. He drew our attention of this Court in the case of Coal India Ltd. Vs. Ananta Saha and Metropolitan Transport Corpn. v. V.Venkatesan.

7. Learned counsel for the respondent submits that as per the instructions from his client, it would be satisfactory, if the award is modified to the extent that the sum of Rs. 2 lakhs deposited with this court in terms of the order dated 20.12.2019 be released to him alongwith the interest accrued thereon.
8. Taking into account the entire facts and circumstances of the case and the submissions of learned counsel for the respondent, the impugned award is modified to the extent that a sum of Rs. 2 lakhs deposited by the petitioner/management with this court be released to the respondent/workman alongwith interest accrued thereon.
9. The writ petition stands disposed of.

DINESH KUMAR SHARMA, J

SEPTEMBER 14, 2022/sr