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

\+ LPA 584/2023, CM APPL. 41341-41342/2023

Reserved on: 11th August, 2023
Pronounced on: 23rd August, 2023

VINOD KUMAR GUPTA ..... Appellant

Through: Mr. N.S. Dalal, Mr. Alok Kumar and Ms. Rachana Dalal, Advocates.

versus

NATIONAL INSTITUTE OF IMMUNOLOGY ..... Respondent

Through: Mr. G.D. Sharma, Advocate.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J.

1. This intra-court appeal challenges the judgment dated 02nd June, 2023, passed by the learned Single Judge in W.P. (C) Nos. 16023/2004 and 5016/2003[1] [hereinafter referred to as the "***impugned judgment***"]. The impugned judgment decided writ petitions filed by both parties contesting an award rendered by the Labour Court which held the Appellant's termination by the Respondent to be illegal. In the impugned judgment, the learned Single Judge dismissed Respondent's objections and endorsed the Labour Court's conclusion of illegal termination. Both the Labour Court and learned Single

[1] Titled 'Vinod Kumar Gupta v. National Institute of Immunology', and 'National Institute of Immunology v. Vinod Kumar Gupta', respectively.

Judge declined to reinstate the Appellant to his former position, however, the learned Single Judge enhanced the initial compensation of Rs.50,000/-, awarded by the Labour Court, to Rs.1,50,000/-. It is this partial relief – specifically, the refusal to reinstate the Appellant – which motivates the present appeal.

2. Factual background leading to the present appeal:

Employment and Termination

2.1. The Appellant was employed by the Respondent organization on 05th July, 1990, in the 'Store Section' as a Hindi typist responsible for maintaining the *challan* register. On 09th August, 1991 the Appellant applied for the regularization of his employment. However, he was denied duty starting 26th November, 1991, prompting him to issue a demand notice alleging illegal termination and seeking reinstatement.

Unsuccessful Conciliation and Referral to Labour Court

2.2. Attempts at conciliation before a Conciliation Officer on 29th May, 1992, proved unsuccessful. Consequently, the matter was referred to the Labour Court by the Secretary (Labour), GNCTD, on 24th August, 1993, under the Industrial Disputes Act, 1947 [hereinafter referred to as the "***ID Act***"]. The terms of the referral were as follows:

> *"Whether the services of Shri Vinod Kumar Gupta have been terminated illegally and/or unjustifiably by the Management, and if so, to what relief is he entitled and what directions are necessary in this respect?"*

Framing of Issues by Labour Court

2.3. Based on the parties' pleadings, including the Appellant's statement of claim and the Respondent's response, the Labour Court framed the following issues:

> "*1. Whether the management is an Industry as defined in Section 2(j) of*

the I.D. Act?
2. Whether the workman himself stopped attending his duty as stated in the written statement?
3. As per the terms of reference".

Labour Court's Decision

2.4. The Labour Court decided Issues 1 and 2 in favor of the Appellant. It held that the Respondent's management qualifies as an "industry" under Section 2(j) of the ID Act, and that the Appellant had not voluntarily ceased his duties, as had been alleged by the Respondent. Consequently, Issue 3 was resolved in favor of the Appellant, ruling it as a case of illegal termination under Section 25F of the ID Act.

Relief Granted by Labour Court

2.5. Regarding relief, the Labour Court declined to reinstate the Appellant but awarded a lump sum compensation of Rs. 50,000/- in lieu of reinstatement and back wages. The award, dated 9th December, 2002,[2] became enforceable from 30th July, 2003, pursuant to Section 17A of the ID Act.

Challenge and Subsequent Judgment

2.6. Both, the Respondent and Appellant challenged the Labour Court's award through writ petitions. In the impugned judgment, the learned Single Judge affirmed the Labour Court's finding that the Appellant's termination was illegal. However, instead of ordering reinstatement with full back wages, the learned Single Judge enhanced the lump sum compensation to Rs. 1,50,000/-.

Contentions of Parties

3. At the outset, Mr. N.S. Dalal, counsel for Appellant, on instructions, clarified that although the present appeal impugns the decision of the Single

[2] I. D. No. 301/93.

Judge in its entirety, he would limit the challenge to the adequacy of the compensation awarded in lieu of reinstatement. He contended that since both, the learned Single Judge and Labour Court, concurred on the illegality of the termination, the Appellant is entitled to a far more substantial compensation amount. The Appellant was unjustly removed from service over three decades ago, and in light of this extended period, the compensation of Rs. 1,50,000/- is grossly insufficient. Mr. Dalal also emphasized that the Appellant should not bear the consequences of the Respondent's untenable and factually incorrect position throughout the proceedings. In other words, the Appellant should not be made a scapegoat for the Respondent's incorrect and legally unsound arguments. On the other hand, Mr. G.D. Sharma, counsel representing the Respondent, defended the impugned judgment. He argued that the judgment struck a well-balanced approach and thus warrants no further interference.

<u>ANALYSIS AND FINDINGS</u>

4. We have carefully considered the submissions from both parties. Given that Appellant's challenge against the impugned judgment focuses solely on the quantum of compensation, our examination has similarly been circumscribed. The rationale behind the learned Single Judge's decision to increase the compensation from Rs. 50,000/- to Rs. 1,50,000/- can be discerned from the following extract :

> *"39. As far as prayer of reinstatement with full back wages is concerned, it is a settled principle of law that if termination is held illegal, the relief of reinstatement would not automatically follow. In the present case, the workman worked with the Management as a daily wager for a period of approximately 1 year 4 months in the year 1991. The termination of the workman is held to be illegal as there was violation of Section 25 F of the*

I.D. Act. Hence, considering the facts of the present case, this Court is of the considered view that the learned Labour Court was right in eschewing an order of reinstatement, being inequitable. This Court has been informed that the workman has already attained the age of 56 years. However, in the interest of justice, in order to put quietus to this dispute, the compensation in lieu of reinstatement granted to the workman is enhanced from Rs. 50,000/- to Rs. 1,50,000/-."

5. As noted above, few essential points warrant attention. The Appellant's employment was for a limited period of approximately 1 year and 4 months in 1991. The Labour Court initially awarded Rs. 50,000/- as compensation in lieu of reinstatement, which was enhanced to Rs. 1,50,000/- upon examining the overall facts and circumstances of the case, including the duration of employment and the salary drawn by him. Monetary compensation is granted as an equitable relief, in the interests of justice. As such, there is no fixed formula according to which the quantum of compensation is to be calculated. Rather, it is on a case-by-case basis, upon considering the specific facts of the case that the compensatory amount is finalized. One of the factors considered by the Court is the length of service,[3] and on occasion, the conduct of the employer has also been taken into account in determining the amount to be paid[4] – highlighting the equitable nature of the relief. It is in exercise of this equity jurisdiction that the relief of enhancement of compensation is granted by the courts in the event that the previously granted quantum of compensation is inadequate given the peculiar facts of the case.

6. For the foregoing reasons, in the opinion of the Court, there is no infirmity in the view taken by the learned Single Judge. However, we are inclined to further enhance the compensation. In reaching this decision we are

[3] Bharat Sanchar Nigam Limited v. Bhurumal, 2013 SCC OnLine SC 1092.
[4] Telecom District Manager and Others v. Keshab Deb, 2008 SCC OnLine SC 791.

particularly persuaded by the exceptional length of time the Appellant has been embroiled in legal proceedings. The passage of over three decades since the initial termination has not only extended the Appellant's emotional and financial distress but has also potentially resulted in missed opportunities for career growth and financial stability. This extended period has likewise led to a loss of productive years in service, compounded by the inevitable rise in the cost of living and healthcare expenses. Furthermore, the Appellant succeeded in proving the termination was illegal despite the Respondent's resistance, a factor that should not be taken lightly when considering the emotional and financial resources required for such a legal battle. Therefore, in balancing the equities and recognizing the hardships borne by the Appellant, we find it both just and equitable to enhance the compensation to Rs. 3,00,000/-.

7. Appellant is directed to furnish his bank account details to the Respondent within one week from the date of release of this judgment. The enhanced amount should be paid within four weeks from today, failing which interest of 9% per annum would also apply.

8. With the above directions, the present appeal is disposed of, along with pending applications.

SANJEEV NARULA, J

SATISH CHANDRA SHARMA, CJ

AUGUST 23, 2023
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