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

+ **W.P.(C) 7619/2000**

D.T.C.

..... Petitioner

Through: Ms. Aditi Gupta, Advocate.

versus

RAJINDER PRASAD & ORS.

..... Respondents

Through: Mr. Manish Kumar Vikkey,
Advocate.
Mr. Anubhav Gupta, Advocate for R-
3.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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19.03.2024

1. The instant petition under Articles 226 and 227 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:

*“i) issue an appropriate Writ in the nature of Certiorari, quashing the impugned Award dated 9-5-96 in I.D. No. 334/85 passed by the Ld. Labour Court, Tis Hazari;
ii) pass such other order/s as may deemed fit and proper.”*

2. The petitioner by way of the present petition seeks issuance of a writ in the nature of certiorari for quashing the impugned award dated 9th May, 1996 passed by the learned Labour Court in industrial dispute bearing ID No. 334/1985 vide which the termination of service of the respondent workman was held to be illegal and he was declared entitled to be reinstated in the job with continuity of service with full back wages.



3. During the course of arguments, learned counsel appearing on behalf of the petitioner does not press the instant petition on merits and seeks only limited relief.

4. Learned counsel for the petitioner, on instructions, undertakes that the petitioner shall pay Rs.3 Lakhs as compensation to the respondent workman in lieu of his reinstatement.

5. Learned counsel appearing on behalf of the respondent workman has no objection to the limited relief sought by learned counsel for the petitioner.

6. Heard the learned counsel appearing on behalf of the parties and perused the record.

7. This Court is of the view that reinstatement in service is not a vested right and a reasonable compensation in lieu of the reinstatement may be granted by the Court after taking into consideration the peculiar facts and circumstances of the case. Reinstatement is not a vested right following wrongful termination and certain compensation may be granted to meet the ends of justice in a particular case even though there may be a claim for back wages or reinstatement made by the workman. Similar view has been taken by the Hon'ble Supreme Court in case titled **Allahabad Bank v. Krishan Pal Singh, (2021) 19 SCC 227**, relevant extracts of the same is as under:

“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.”

8. Consequently, in the aforesaid case the Hon'ble Supreme Court decided to grant lumpsum compensation instead of reinstatement while noting that the Court has the discretion to award compensation to the workman while considering the facts and circumstances of the case.

9. This Court is of the considered view that the compensation serves as a remedy for unjustified and premature termination of a workman in certain instances especially in cases involving unlawful termination since providing compensation is deemed to be a more suitable solution. Therefore, even if the Labour Court determines termination to be illegal, it has the discretion to grant compensation instead of reinstatement if it deems it to be adequate.

10. Now adverting to the issue at hand.

11. The petitioner was terminated in the year 1984 and the impugned award was passed in the year 1996. While passing the impugned award, the learned Labour Court, after taking into account the evidence and submissions made before it, adjudicated that the respondent workman is entitled to be reinstated along-with continuity in service and full back



wages.

12. However, at this stage, considering the elapse of time since the passing of the impugned award which is almost 28 years, this Court deems it appropriate to grant the respondent workman a lumpsum compensation instead of his reinstatement.

13. Therefore, taking into account the limited relief sought as well as the undertaking given by learned counsel appearing on behalf of the petitioner and the no objection by the learned counsel on behalf the respondent workman, a compensation of Rs.3 Lakhs is granted to the respondent workman in lieu of his reinstatement along-with continuity in service and full back wages.

14. In view of the aforesaid terms, the impugned award dated 9th May, 1996 passed by the learned Labour Court in industrial dispute bearing ID No. 334/1985 stands modified.

15. The petitioner is directed to pay the above stated compensation to the respondent workman within four weeks from today.

16. With the aforesaid observations, the present petition along with the pending applications (if any) stands disposed of.

CHANDRA DHARI SINGH, J

MARCH 19, 2024

rk/ryp

Click here to check corrigendum, if any