



\$~60

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

+ **W.P.(C) 1511/2020**

SMT. MEHENDERI DEVI

..... Petitioner

Through: None

versus

CHAIRMAN/PRINCIPAL, M/S LAL BAHADUR SHASTRI

SMARAK (JAVM)

..... Respondent

Through: Mr.Anil Kumar Hajelay & Mr.Anant
Kumar Hajelay, Advocates

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

04.03.2024

%

1. There is no appearance on behalf of petitioner.
2. As the matter is pending since 2020, the Court is left with no option, but to decide the matter with the assistance of learned counsel for the respondent.
3. Learned counsel appearing on behalf of the respondent submitted that the instant petition has been filed for limited purposes to implement the impugned award dated 22nd February, 2019 passed by the learned Labour Court. It is submitted that the impugned award has already been implemented and in compliance with the directions passed by the learned Labour Court, the respondent/management had deposited a cheque of Rs.5,00,000/- dated 17th June, 2019 before the Implementation Authority, Office of the Deputy Labour Commissioner, Hari Nagar Labour Office,



New Delhi-110064. It is further submitted that after the deposit of the awarded amount, the Implementation Authority has directed the petitioner-workman to receive the cheque of Rs.5,00,000/-, but the petitioner-workman did not receive the said cheque and the same is still lying pending before the Implementation Authority.

4. Learned counsel appearing on behalf of the respondent submitted that vide order dated 22nd February, 2019, the learned Labour Court had directed the management either to reinstate the services of the petitioner-workman with full back wages and all other consequential benefits or in default to pay her a compensation of Rs.5,00,000/- towards settlement of all other legally recoverable dues as well as retrenchment compensation excluding the benefits of EPF if any.

5. It is submitted that the compensation amount of Rs.5,00,000/- has already been paid to the petitioner-workman, however, for other pending dues, the petitioner-workman may apply before the appropriate authority and the concerned authority may decide the said application in accordance with law. It is further submitted that for the purpose of recovery of benefits of EPF, the petitioner may apply before the concerned authority i.e. Employees' Provident Fund Organization.

6. Heard learned counsel appearing on behalf of respondent and perused the record, including the counter affidavit as well as rejoinder filed on behalf of petitioner.

7. The relevant portion of the direction passed by the learned Labour Court vide order dated 22nd February, 2019 is reproduced hereinbelow:-

"Issue No.2 Relief - In view of my findings to above mentioned issue, the Management is directed to reinstate the claimant



with full back wages and all other consequential benefits or in default to pay her a compensation of Rs.5 lakhs towards Settlement of all other legally recoverable dues as well as retrenchment compensation excluding the benefit of EPF if any, which shall be payable separately to the claimant within a month from the date of publication of this Award failing which the said amount shall also carry a simple interest of 8% per annum till the date of its realization.

Award is passed accordingly and reference stands answered in the aforesaid terms. Copy of this award be sent to the Labour Commissioner for publication. Case file be consigned to record room."

8. Upon perusal of the contents of the rejoinder filed on behalf of petitioner, it is stated that contents of paragraphs 1 and 2 of the preliminary objections are strongly controverted. The petitioner has replied to the said paragraphs in the rejoinder and the relevant paragraphs No.2 and 3 of the rejoinder are reproduced hereinbelow:-

"...2. That the contents of paragraphs in preliminary objections containing in paragraphs 1 and 2 are strongly controverted. It is respectfully submitted that the Learned Labour Court vide its Award dated 22.02.2019 directed the Respondent Management to reinstate the Petitioner Work-woman with full back-wages and all other consequential benefits or in default to pay her compensation of Rs. 5 lacs towards settlement of all other recoverable dues as well as retrenchment compensation excluding the benefit of EPF if any which shall be payable separately to the Petitioner within a month from the date of publication of this award, failing which, the said amount shall also carry a simple interest of 8% per annum till the date of realization. The relevant paragraph of the said award is reproduced as under:

"Issue No.2 Relief In view of my findings to above mentioned issue, the Management is directed to reinstate the claimant with full back wages and all other consequential benefits or in default to pay her a



compensation of Rs.5 lakhs towards Settlement of all other legally recoverable dues as well as retrenchment compensation excluding the benefit of EPF if any, which shall be payable separately to the claimant within a month from the date of publication of this Award failing which the said amount shall also carry a simple interest of 8% per annum till the date of its realization."

3. That pursuant to the above mentioned award, the Petitioner vide her letter dated 07.05.2019 requested the Respondent Management for reinstatement. Thereafter the Petitioner has also requested vide her letter dated 22.08.2019 to reinstate the Petitioner work woman within two weeks. But the management turned a deaf ear to the request of the work woman (the Petitioner). In her letter dated 22.08.2019, the Petitioner categorically mentioned that if the management failed to reinstate the Petitioner within two weeks, the Petitioner work woman would initiate the legal proceedings against the Respondent Management. In regard to the deposit of Rs.5 lacs before the implementation authority i.e. the office of the Deputy Labour Commissioner, it is respectfully submitted that the Petitioner is interested in reinstatement since there is a categorical direction of the Learned Labour Court to reinstate the Petitioner with full back wages and all other consequential benefits. If the Petitioner is reinstated she would continue in her job for more than 15 years and she would earn many times of Rs.5lacs as granted by the Learned Labour Court towards compensation in place of reinstatement with full backwages."

9. As per the impugned award, it is an admitted fact that the learned Labour Court has directed the respondent to reinstate the petitioner with full back wages and all other consequential benefits or in default to pay her a compensation of Rs.5,00,000/- towards settlement of all other legally recoverable dues as well as retrenchment compensation excluding the benefit of EPF, if any. By way of filing the instant writ petition, the petitioner prayed the following reliefs:-



*"(a) issue any appropriate writ/direction to respondent to comply the direction of the Award dated 22.02.2019 passed in LIR No.8819/16 by Shri Lokesh Kumar Sharma, Addl. District & Sessions Judge, Presiding Officer Labour Court XIX, Dwarka Courts: Delhi Marked as Annexure P-1. and/or
(b) Pass any other and further order(s) as this Hon'ble Court deem fit and proper in the interest of justice."*

10. It is an admitted fact that the instant petition has been filed for a limited purpose i.e. to implement the direction passed by the learned Labour Court vide order dated 22nd February, 2019. After perusing the counter affidavit and rejoinder, it is crystal clear that the amount of compensation of Rs.5,00,000/- has already been deposited before the Implementation Authority.

11. Keeping in view the above facts and circumstances, the petitioner is at liberty to move an appropriate application before the appropriate authority to avail his compensation amount as well as other consequential benefits and the EPF as well, within four weeks from today. After receiving the said application, the concerned authority is directed to pass an appropriate order or direction in accordance with law, expeditiously.

12. With the aforesaid directions, the instant petition alongwith pending applications, if any, stands disposed of.

CHANDRA DHARI SINGH, J

MARCH 4, 2024

dy/da

Click here to check corrigendum, if any