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

+ W.P.(C) 10136/2006 & CM APPL. 7572/2006

D.T.C

..... Petitioner

Through: Ms. Manisha Tyagi with Mr. Varun
Garg, Advocates.

versus

OM PRAKASH & ANR

..... Respondents

Through: Mr. G.S.Charya, Advocate.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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08.05.2024

1. The instant writ petition under Article 226 of the Constitution of India has been filed on behalf of petitioner seeking the following reliefs:-

(i) set aside the impugned award dated 04.05.2005 passed by the court of Sh. P.S. Teji, Ld. Presiding Officer, Industrial Tribunal-II, Karkardooma Courts, Delhi, in I.D. No.40/2001 with costs throughout;....”

2. The crux of the matter pertains to the alleged unauthorised absence of the respondent no.1 for a period of 31 days during the period of November 1997 till May 1998 which was then referred to the learned Industrial Tribunal for adjudication. The aforesaid industrial dispute was decided *vide* award dated 4th May, 2005 in favour of the petitioner holding that the petitioner was entitled to reinstatement along with the 40% of arrears on the last drawn wages or minimum wages prescribed by Government of Delhi, whichever is more along with the consequential benefits.



3. During the course of proceedings, learned counsel appearing on behalf of the petitioner submitted that *qua* application under Section 17-B of the Industrial Disputes Act, 1947 (hereinafter “Act”), the respondent No.1 has already received an amount of Rs.2,50,000/-. On instructions, she further submitted that since a considerable time has elapsed and that the respondent no.1 has since expired, the petitioner would not press the present petition on merits and also proposed to pay a reasonable compensation approximately Rs.5,00,000/- in lieu of reinstatement.

4. Learned counsel appearing on behalf of the respondent did not refute the submission made on behalf of the petitioner with respect to the receiving of an amount of Rs.2,50,000/- *qua* application under Section 17-B of the Act. He further accepted the proposal of a reasonable compensation, however, submitted that the said compensation may be increased to an amount of Rs.10,00,000/-.

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

6. It is a well settled principle 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 facts and circumstances of the case. The compensation serves as a remedy for unjustified and premature termination of employment in certain instances especially in cases involving unlawful termination, providing compensation is deemed a more suitable solution. Therefore, even if the Labour Court determines termination to be illegal, it has the discretion to compensation instead of reinstatement if it deems adequate as per the facts and the circumstances of the case.



7. In view of the aforesaid *dicta* as well as the submissions advanced by the learned counsel appearing on behalf of the parties, this Court is of the view that since the petitioner was terminated in the year 1999 and the impugned award has been passed in the year 2006, considering the elapse of time as well as the factum that the respondent no.1 has since expired, this Court deems it apposite to grant the LRs of the deceased respondent No.1 a lump sum compensation instead of reinstatement.

8. Considering the facts and circumstances of the case, this Court deems it appropriate to award a compensation of Rs.7,50,000/- in lieu of reinstatement along with all consequential benefits as awarded by the learned Labour Court to the LRs of the deceased respondent no.1.

9. Accordingly, the impugned award dated 4th May, 2006 stands modified and this Court awards a compensation of Rs.7,50,000/- to the LRs of the deceased respondent no.1 in lieu of reinstatement. The aforesaid awarded compensation shall be paid to the LRs of respondent no.1 within 6 weeks from today.

10. With the aforesaid observations, the present petition along with all pending applications, is disposed of.

CHANDRA DHARI SINGH, J

MAY 8, 2024
RK/DB

[Click here to check corrigendum, if any](#)