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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 21149/2005**

D.D.A.

..... Petitioner

Through: Mr. Arun Birbal and Mr. Varun
Gupta, Advocates for DDA

versus

AMAR SINGH & ORS.

..... Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

17.05.2024

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1. The crux of the present matter pertains to the illegal termination of the respondent (“respondent workman” hereinafter) who was employed as ‘Baildar’ with the petitioner (“petitioner DDA” hereinafter) since 3rd January, 1983. Thereafter, the respondent was served with a transfer order dated 11th November, 1997, bearing no. F.3(11)97/ED-2/DDA/1681, whereby, his services were transferred to the Delhi Jal Board.
2. Subsequently, the respondent workman approached the learned Labour Court, whereby, the learned Court below *vide* the impugned Award dated 17th January, 2004, in I.D No.451/00, held that the workman is entitled to reinstatement along with full back wages as he had not abandoned his services rather, his services were terminated without complying with the Service Rules as well as the provisions of the Industrial Disputes Act, 1947 (“the Act” hereinafter).
3. Learned counsel appearing on behalf of the petitioner DDA submitted that the learned Labour Court erred in passing the impugned Award as it



failed to consider the entire facts and circumstances of the present case, especially the fact that in the year 1997, the respondent workman was served upon a transfer letter dated 11th November, 1997 whereby, his services were transferred from the petitioner DDA to the Delhi Jal Board, however, he failed to comply with the said transfer order.

4. It is further submitted that the respondent-workman has been receiving payment under Section 17-B of the Act in terms of order dated 9th April, 2008 passed by the Predecessor Bench of this Court.

5. Heard the learned counsel appearing on behalf of the petitioner DDA and perused the records.

6. Despite notice, none appeared on behalf of the respondents when the matter was called.

7. It is a well settled principle that the reinstatement in service is not a vested right, however, the Court, after taking into consideration the facts and circumstances of the case in hand, may grant compensation in lieu of the reinstatement. In case titled **Allahabad Bank and Ors. v. Krishan Pal Singh** in SLP(C) No. 19648/2019, decided on 20th September 2021, the Hon'ble Supreme Court has held 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. In the aforesaid case, the Hon’ble Supreme Court has unequivocally held that reinstatement is not a vested right following wrongful termination, particularly if the employee has not rendered any services to the management during the litigation process. Consequently, the Supreme Court had opted to grant lump-sum compensation instead of reinstatement.

9. It further held that considering the facts and circumstances of the case, the Court has the discretion to award compensation to a workman as a remedy for unjustified and premature termination of employment in certain instances, especially in cases involving unlawful termination, grant of compensation is deemed a more suitable solution.

10. In view of the aforesaid judicial dictum, the submissions advanced by the learned counsel for the petitioner DDA and the factual position that the respondent workman is on the verge of superannuation, in the interest of justice, this Court is in agreement with the averments made on behalf of the petitioner DDA that the impugned award may be modified to the extent of grant of compensation in lieu of reinstatement.

11. In this backdrop, this Court, considering that the petitioner was terminated in the year 1997, the matter is pending since 2005 and the fact



that during the pendency of the present matter the respondent workman is on the verge of superannuation is of the view that since the reinstatement of the respondent workman cannot be done, a lump-sum compensation in that regard would be the appropriate remedy. Therefore, this Court does not find any merit in the instant petition to grant reinstatement with full back wages as awarded by the learned Labour Court.

12. As per material on record, and the contentions raised by the learned counsel for the petitioner DDA, the respondent workman has been receiving payment under Section 17-B of the Act since April, 2008, therefore, this Court instead of granting the relief of reinstatement to him, deems it appropriate to award a lump-sum compensation of Rs.2,00,000/- in lieu of reinstatement along with full back wages.

13. In view of the above, the impugned award is modified to the extent that a lump-sum compensation amounting to Rs.2,00,000/- (Two Lakhs Only) in lieu of reinstatement along with full back wages shall be paid by the petitioner DDA to the respondent workman within a period of three weeks from the date of this order.

14. With the aforesaid observations, the present petition along with pending applications, if any, is disposed of.

CHANDRA DHARI SINGH, J

MAY 17, 2024
gs/da

Click here to check corrigendum, if any