



2024:DHC:1767



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of order : 19th February, 2024**

+ **W.P.(C) 553/2005**

D.T.C.

..... Petitioner

Through: Ms.Manisha Tyagi and Mr.Harsh
Chaudhary, Advocates

versus

ANANT RAM

..... Respondent

Through: Mr. R. S. Rai, Advocate

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

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

"(a) pass a writ of certiorari or any other appropriate writ/direction or order to quash the order dated 22.04.2002 and award dated 06.12.2003 in I.D. No.22/97 passed by Ld. Presiding Officer, Industrial Tribunal, Delhi.

(b) Pass such other directions or order as may be deemed fit and proper in the facts and circumstances of the case in favour of the petitioner."

2. The crux of the present matter pertains to the illegal termination of the respondent ("respondent workman" hereinafter) who was employed at the post of a 'bus conductor' with the petitioner i.e., Delhi Transport Corporation ("DTC" hereinafter). Pursuant to the said termination, the respondent workman approached the Secretary (Labour), Delhi



Administration, Delhi and *vide* reference order dated 30th April, 1992, bearing no. F24(933)/92-Lab, the dispute between the parties was referred to the Labour Court for adjudication.

3. The learned Labour Court *vide* award dated 6th December, 2003, decided the reference in favour of the respondent workman, observing to the effect that the services of the respondent workman were unjustly terminated *vide* order dated 17th May, 1991, passed by the DTC and thus directed the DTC to reinstate the respondent workman with full back wages.

4. The learned counsel appearing on behalf of the petitioner has placed the details of the payment already made to the respondent workman under Section 17B of the Industrial Disputes Act, 1947 ('ID Act' hereinafter) and the same is taken on record.

5. It is further submitted that since the respondent has already superannuated on 28th February, 2015, and an amount of Rs.6,87,715/- has already been paid to him, the relief granted *vide* the impugned order may be modified and the amount of the relief may be reduced.

6. *Per contra*, the learned counsel appearing on behalf of respondent has fairly conceded to the submissions made by the learned counsel for the petitioner and has accorded to the fact that the amount of Rs.6,87,715/- has already been received by the respondent, post superannuation.

7. Heard the counsel appearing on behalf of the petitioner and perused the record.

8. 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. 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 the following:

“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.”

9. 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 lumpsum compensation instead of reinstatement.



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

11. Therefore, even if the Labour Court determines termination to be illegal, the Court has the discretion to award compensation instead of reinstatement if it deems adequate as per the facts and prevailing circumstances of the case.

12. In view of the aforesaid dicta, the submissions advanced by the learned counsel for the parties and the factual position of the respondent workman superannuating in the year 2015, this Court in the interest of justice, is considering the averments made on behalf of the petitioner that the impugned award may be modified to the extent of compensation.

13. This Court is further of the view that since the petitioner was terminated in the year 1991 and the impugned award has been passed in the year 2003, the learned Labour Court has rightly adjudicated that the respondent workman is entitled to be reinstated along with full back wages, however, considering the lapse of time, this Court deems it apposite to grant the petitioner a lumpsum compensation instead of reinstatement.

14. In this backdrop, this Court does not find any merit in the instant petition for setting aside the impugned award.

15. However, since, the respondent workman was terminated by the petitioner on 17th May, 1991, and during the pendency of the present matter,



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the respondent workman has already been superannuated. Thus, considering the lapse of more than 32 years, the reinstatement of the respondent workman cannot be done and lump sum compensation in that regards would be the appropriate remedy.

16. As per material on record, the respondent workman has also received an amount of Rs.6,87,715/-, therefore, this Court instead of granting the relief of reinstatement to him, deems it appropriate to award a compensation of Rs.2,00,000/- in lieu of reinstatement.

17. In view of the above the impugned award is modified to the extent that a compensation amount of Rs. 2,00,000/- in lieu of reinstatement shall be paid to the respondent workman within a period of six weeks from the date of this order.

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

19. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

FEBRUARY 19, 2024

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Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed
By: DAMINI YADAV
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