



2025:DHC:11141



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment Reserved on: 08.12.2025

Judgment pronounced on: 11.12.2025

+ W.P.(C) 3687/2018

BHARAT KUMAR GARDNER (MALI)

.....Petitioner

Through: Mr. Amit Singh and Ms. Shaily Tarar,
Advocates

Versus

NEW DELHI PUBLIC SCHOOL

.....Respondent

Through: Mr. Manish Sharma, Advocate

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. This writ petition under Articles 226 and 227 of the Constitution of India has been filed by the claimant/workman in D.I.D. 2005/2016 on the file of the Labour Court-X, Dwarka Courts, Delhi, aggrieved by the order dated 29.11.2017, by which his claim for reinstatement with back wages was declined. However, he was granted compensation of ₹1,00,000/- in the place



of reinstatement and back wages.

2. The parties in this writ petition, unless otherwise specified, will be referred to as described in the statement of claim.

3. In the statement of claim filed on behalf of the claimant/workman, it is alleged thus:- The workman was working as a gardener in the School of the respondent/management, namely, New Delhi Public School, A-Block, Vikas Puri, New Delhi, since 1998 continuously and without any break. In the year 1998, he was paid a monthly salary of ₹1200/-. After repeated requests in the year 2002, his salary was raised to ₹2500/- per month. This was being paid with effect from 2002. For the purpose of giving him salary, a bank account had been opened and ATM card was also issued in his name. However, the respondent/management never gave him the passbook or the ATM card issued in his name. On the other hand, they continued to pay him salary in cash. The claimant/workman was aware of the fact



that the provident fund was also being deposited in his name. However, no information or details regarding the same was given to him. Though he was working with the respondent/management from the year 1998 onwards, the benefit of ESI was also not being given to him, although it was obligatory for the management to do so.

3.1. In the year 2012, the respondent/management terminated the claimant/workman from service. Hence, he was constrained to send a legal notice dated 02.11.2012. After receipt of the notice, the respondent/management allowed the workman to resume his duties and enhanced his salary ₹7,000/- per month. The claimant/workman continued to work honestly and sincerely without giving any room for complaint. However, in the month of September 2013, the Chairman of the management and other guards of the School started creating trouble for the claimant/workman. He was told that he was no longer required in



service. On 07.10.2013, when the claimant/workman reached the School, he was not allowed by the guards to enter the premises. He was not permitted to meet either the Principal or the School management. On 12.10.2013, when he tried to enter the School, he was abused and threatened by the management. Hence, he was constrained to lodge a complaint before the SHO, Vikas Puri Police Station, New Delhi. Thereafter, he was terminated from service without any wrongdoing on his part. A legal notice dated 18.11.2013 was sent to the respondent/management. Despite service of notice, the respondent/management neither replied nor took him back in service. The termination of the workman is illegal, arbitrary and unjustified and, therefore, the claim for directing the respondent-management to reinstate him with full back wages along with consequential benefits.

4. The respondent/management filed written statement denying the allegations in the statement of claim. It was contended



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that the claimant/workman was not performing his duties as a gardener. He was regularly late and repeatedly ignored and disobeyed the directions given by the respondent/management. Thereafter, on 30.09.2013, he abandoned his job. The allegation that the claimant/workman had been working as a gardener since 1998 was denied. According to the respondent/management, he was appointed w.e.f. 01.07.2002 only. The allegations regarding the denial and refusal of the respondent/management to give him the benefits to which he was entitled to were also denied. It was contended that as he had voluntarily left his job, the claim was not maintainable. It was also contended that before the conciliation officer, the claimant/workman deliberately did not appear and, therefore, the conciliation officer had issued a failure report on 07.07.2014. In such circumstances, it was contended that the statement of claim was liable to be dismissed.

5. On completion of pleadings, necessary issues were raised



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by the Labour Court. The parties went to trial on the basis of the aforesaid pleadings. The workman was examined as WW1 and Exhibits WW1/1 to WW1/7 were marked on his side. No oral or documentary evidence was adduced by the respondent/management.

6. The Labour Court, on consideration of the oral and documentary evidence and after hearing both sides, passed the impugned Award. Aggrieved, the present writ petition has been filed by the claimant/workman.

7. It was submitted by the learned counsel for the claimant/workman that when the Labour Court found the termination to be illegal, the prayer for reinstatement ought to have been granted. The relief for reinstatement can be refused in circumstances, like, if the establishment is closed. In the case on hand, the School in which the claimant/workman was working is still running, and hence, the option for reinstatement was very



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much available. The claimant/workman was only 43 years old when he was terminated. Now, he is just 50 years old and, therefore, he can be reinstated. According to learned counsel, the Labour Court erred in not reinstating the claimant/workman and, therefore, the Award needs to be interfered with to the said extent. In support of his argument, he relied on the dictum in **Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D. ED.) & Ors. (2013) 10 SCC 324.**

8. *Per contra*, it was submitted by the learned counsel for the respondent-management that the Labour Court was right in granting compensation in the circumstances of the case. In fact, after the impugned Award was passed, the compensation awarded was offered to the claimant/workman. But he refused the same and filed the present writ. He further submits that there is no infirmity in the impugned order calling for an interference by this Court.

9. Heard both sides.



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10. In **Deepali Gundu Surwase** (*supra*), it was held that in cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule. The said rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the Court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors. The cases in which the competent Court or Tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the Court or Tribunal concerned will be fully justified in directing payment of full back wages. The Courts must always keep in view that in cases of wrongful/illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and there is



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no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.

11. On going through the impugned Award, it is seen that despite sufficient opportunity being granted to the respondent/management, they never cross-examined the claimant/workman who offered himself as a witness, WW1. The respondent/management also did not adduce any evidence to disprove the case of the claimant/workman. Hence, the Labour Court was right in holding that claimant/workman succeeded in proving that the termination was illegal.

12. Now, coming to the question as the reliefs to be granted in this case. The learned counsel for the workman relying on the aforesaid decision submitted that this is a fit case in which the court ought to have granted reinstatement with back wages, as the workman has specifically pleaded and proved that he was not



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gainfully employed after his termination. No contra evidence has been adduced by the respondent-management, and, therefore, there was no reason for the Labour Court to have not granted reinstatement with back wages.

13. On going through the facts and circumstances of the case, this Court is of the opinion that the Labour Court has exercised its discretion correctly because even going by the case of the claimant/workman, he had given police complaints twice against the respondent-management. According to him, initially, he was terminated in the year 2012. Thereafter, he sent a legal notice pursuant to which he was reinstated in service. His subsequent termination also resulted in a police complaint and notices being exchanged between the parties. Therefore, the trust and confidence that is necessary between an employer and employee seems to have been lost years back. In such circumstances, reinstatement does not appear to be the proper remedy to be given in the case.



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The compensation that has been granted appears quite appropriate in the circumstances of the case. Hence, I find no infirmity in the findings of the Labour Court calling for an interference by this Court.

14. In the result, the writ *sans* merit is dismissed. Application(s), if any pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

DECEMBER 11, 2025

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