

(2019) 07 DEL CK 0570

In the Delhi High Court

Case No : Letters Patent Appeal No. 232 Of 2016, Civil Miscellaneous No. 13130 Of 2016, 37251 Of 2018

Anil Kumar & Ors

APPELLANT

Vs

Management Of M/S Richa & Co

RESPONDENT

Date of Decision : 17-07-2019

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2019) 07 DEL CK 0570

Hon'ble Judges : G.S.Sistani, J;Jyoti Singh, J

Bench : Division Bench

Advocate : Rajat Sharma, Anurag Ranjan

Final Decision : Disposed Of

Judgement

G.S. Sistani, J

C.M. 13130/2016 (delay)

1. The present application has been filed by the appellants seeking condonation of delay in filing the present appeal.

2. There is no opposition to the prayer made in the application. Accordingly, the delay of 154 days in filing the present appeal is condoned.

3. The application stands disposed of.

C.M. 37251/2018 (amendment)

4. The present application has been filed by the appellants seeking amendment in the name and address of the sole respondent.

5. There is no opposition to prayer made in the application.

6. For the reasons mentioned in the application, the same is allowed. Amended memo of parties be taken on record.

7. The application stands disposed of.

LPA 232/2016

8. The present appeal is directed against the order dated 29.09.2015. Some necessary facts, which are required for disposal of this appeal are that a common Award dated 01.06.2012 was passed by the Presiding Officer, Labour Court, Karkardooma in DID Nos. 229/2011, 230/2011, 231/2011, 232/2011, 233/2011 and 234/2011 seeking directions to reinstate the appellants with full back-wages. It is the case of the workmen that they have been working with the management in different capacities i.e. tailors, skilled and semi-skilled workers for the past several years at the last drawn monthly salary of Rs. 3437/- except one appellant, who was drawing salary at the rate of Rs.3271/- per month. The workmen also agitated that their services were illegally terminated.

9. In the award, it was found that the termination of the appellants were illegal, however, the management was not directed to reinstate the workmen with continuity of service along with back wages rather a lump-sum compensation of Rs.30,000/- was granted. The learned Single Judge has noted in para 3 of the order that the denial of reinstatement was given up and a limited notice was issued pertaining to the back wages. Learned counsel for the appellant submits that in case the appellants had been reinstated with back wages they would have been entitled to an amount exceeding Rs.2.3 lakhs. It is further submitted that the appellants have been in the service of the management ranging from 4 to 6 years and thus, the compensation awarded was on the lower side.

10. The appellants have relied upon Faridan vs. State of U.P. reported in (2010) 1 SCC 497 for submitting that the compensation is liable to be enhanced.

11. Counsel for the management submits that the termination of the workmen would, at best, have been held to be illegal being in violation of Section 25-F of the Industrial Disputes Act. Additionally, the only requirement of Section 25-F is that the amount, which is to be paid to the employee is 15 days' pay for each year's service and a 30 days' notice pay ranging between Rs.6,000/- to Rs.10,000/-. Reliance was placed on M/s Genesis Printers vs. Shri Rati Ram Jatav Presiding Officer & Ors. reported at (2010) 174 DLT 431.

12. Similar arguments have been addressed before us today. Additionally, counsel for the respondents submits that the workmen were only on probation and thus, the management was well within its right to terminated their services without any notice.

13. We have heard learned counsels for the parties.

14. We deem it appropriate to reproduce paras 7 and 8 of the judgment rendered by the Single Judge to find that there is not infirmity in the decision. Paras 7 and 8 of the judgement rendered by the Single Judge are reproduced as under:

"7. In Faridan and State of U.P. (supra), the compensation of Rs.50,000/-

awarded by the High Court was considered to be too meagre in the present day affairs and the same was enhanced to Rs.2 lacs. Again in *Narendra Kumar v The Regional Manager Punjab National Bank and Ors.*, (2009) 14 SCC 219, the Labour Court awarded a sum of Rs.50,000/- as compensation in lieu of reinstatement into service. The writ petition filed before the High Court was dismissed. The matter went to the Supreme Court. It was observed that ordinarily the Court would not have interfered with the concurrent findings of the Labour Court and the High Court, yet, the court cannot be obdurate to the hard realities of life and a humane and pragmatic approach to the various factors, including the steep escalation in prices in the commodity market, the cost of living, the cost of education of children etc have to be considered. Therefore, the compensation was enhanced from Rs.50,000/- to Rs.1 lac. In *M/s Genesis Printers (supra)* relied upon by the learned counsel for the respondent - management, despite noticing that the retrenchment amount would not have exceeded Rs.2400/- yet this Court awarded a sum of Rs.1 lac for illegal retrenchment in violation of Section 25F. Therefore, this judgment does not help the respondent.

8. In the instant case, as per the case of the petitioners-workmen, they were in the employment of the respondent - management ranging from 2000 to 2002 before their termination in the year 2006. Meaning thereby that the petitioners - workmen were in the employment of the respondent - management for a period of four to six years. Under the circumstances, the amount of compensation of Rs.30,000/- as awarded by the Labour Court in lieu of reinstatement and back-wages is too meagre and the same is enhanced to Rs.1 lac each, which shall be paid by the respondent - management within a period of eight (8) weeks from the date of this order and in the event of default, the same shall be payable with interest @ 9% per annum."

15. The Single Judge has enhanced the amount of back wages from Rs.30,000/- to rupees one lakh. The counsel for the appellants has submitted that the amount is highly insufficient.

16. Although we do not find any infirmity in the impugned order, however, keeping in view the submissions so made, we increase the compensation amount from Rs.1 lakh to Rs.1.25 lakh to be paid to each of the appellants/workmen. In case, the amount is not paid within four weeks, the appellants/workmen would be entitled interest at the rate of 9% per annum.

17. With the above directions, the appeal stands disposed of.