
(2009) 05 DEL CK 0340

In the Delhi High Court

Case No : L.P.A. No. 240 of 2009 and C.M. No. 7284 of 2009

Mohd. Shakir

APPELLANT

Vs

Sunder Lal Jain Hospital

RESPONDENT

Date of Decision : 19-05-2009

Acts Referred:

Industrial Disputes Act, 1947 — Section 11(A)

Citation : (2010) 1 LLJ 245

Hon'ble Judges : Neeraj Kishan Kaul, J

Bench : Single Bench

Advocate : Brijesh Kumar Tamber, for the Appellant;

Final Decision : Dismissed

Judgement

Neeraj Kishan Kaul, J.—The present appeal is directed against the order of the learned single Judge dated March 30, 2009. The narrow factual matrix of the matter is as follows:

2. The services of the appellant (original petitioner in the writ petition) were terminated by the respondent hospital (original respondent in the writ petition). The Labour Court held that the termination order was illegal and unjustified. However, instead of granting reinstatement to the appellant it granted to the appellant one time compensation. The appellant challenged the impugned award on this limited question of grant of one time compensation in lieu of reinstatement.

3. The learned single Judge rightly held, relying on decisions of the Apex Court, that merely because the termination/dismissal of a workman is held to be illegal and unjustified that in itself ipso facto does not result in reinstatement of the workman. The learned single Judge correctly came to the conclusion that the Labour Court, in exercise of its powers u/s 11(A) of the Industrial Disputes Act, 1947, can grant one time compensation in lieu of granting the benefit of reinstatement. The learned single Judge was of the view that there was no

infirmity in the Labour Court's order as the Labour Court was cognizant of the long history of litigation and acrimony between the parties leading to a trust deficit and consequently, had come to the conclusion that reinstatement may not be the appropriate remedy in the present case. The Labour Court took note of the fact that the respondent was a Charitable Hospital, where services of an Electrician were of utmost importance. As per the Labour Court, the industrial dispute was a highly contested one involving a lot of acrimony which had led a considerable amount of mutual distrust between the parties. The Management had denied various allegations of victimization and illegal termination and it had also denied that the appellant was the Vice President of the Union and was thus being transferred with an intention to harass him.

4. We see no infirmity in the conclusion reached by the learned single Judge that the view of the Labour Court cannot be said to be without basis and was a plausible view which it had arrived at after recording the evidence, seeing the conduct of the parties and LPA witnesses and that it was accordingly within its rights to assess the impact which a direction for reinstatement may have had on the working environment and the atmosphere in a Charitable Hospital.

5. The learned single Judge, thus, rightly found no ground to interfere with the order of the Labour Court granting one time compensation as also the quantum of compensation awarded. We see no ground to warrant any interference with the order of the learned single Judge. The appeal is accordingly dismissed. The pending application stand disposed of as well.