

(2009) 04 DEL CK 0122

In the Delhi High Court

Case No : Writ Petition (Civil) No. 20349 of 2005

Mr. Raj Kumar Playa

APPELLANT

Vs

Presiding Officer, Labour Court No. II and Another

RESPONDENT

Date of Decision : 27-04-2009

Acts Referred:

Industrial Disputes Act, 1947 — Section 11A, 25(F)

Citation : (2009) 04 DEL CK 0122

Hon'ble Judges : V.K. Shali, J

Bench : Single Bench

Advocate : Varun Dhingra, for the Appellant; Sumit Gaba, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Shali, J.—The petitioner by virtue of the present writ petition has challenged the award dated 4th September, 2004 passed by the learned Labour Court-II in ID No. 700/1991 titled I.C.M. Engineering (P) Ltd. v. Shri R.K. Playa. By virtue of the aforesaid award, the learned Labour Court came to a conclusion that the services of the petitioner were terminated illegally and unjustifiably w.e.f. 17.1.1991 without complying with the provision of Section 25(F) of the Industrial Disputes Act, 1947 and accordingly, granted him the relief of one time compensation of Rs. 40,000/- in lieu of all his claims pertaining to the reinstatement and back wages.

2. The petitioner feeling aggrieved by the aforesaid award of the quantum of compensation has preferred the present writ petition.

3. I have heard the learned Counsel for the parties and perused the record.

4. The main contention of the learned Counsel for the petitioner is that the quantum of compensation, which has been awarded to the petitioner despite the fact that there was a holding given by the learned Labour Court that his termination was illegal, is very meager. Learned Counsel for the petitioner has contended that the petitioner has served the respondent/Organization for almost

four years and had an unblemished record. In addition to this, he would have served the respondent/Management for at least a decade before he would have superannuated and therefore, all these factors have not been taken into account while granting him a fair and just compensation. Learned Counsel has also placed reliance in support of his contention on a judgment of the learned Single Judge in case titled *Roop Singh v. Govt. of NCT of Delhi* 2009 (1) AD (Del) 92, wherein this Court had granted a compensation of Rs. 75,000/- to the petitioner/workman in the said case on account of having illegally terminated his services by the Management.

5. It may be pertinent here to mention that the last drawn wages in the said case was Rs. 3,070/- and further that he had served the respondent/Organization for almost 11 years.

6. I have carefully considered the submissions made by the learned Counsel for the petitioner and gone through the said judgment cited. There is no dispute about the fact that the learned Labour Court in exercise of its power u/s 11A of the Industrial Disputes Act has been vested with ample power of granting compensation in lieu of reinstatement and payment of back wages. There is no single judgment which lays down the detailed criteria which must be taken into account for the purpose of arriving at just, fair and reasonable compensation in lieu of the services. This can be found in different authorities of the Apex Court or in the judgments of the High Court. The factors which have been taken into account while assessing the amount of compensation payable to a workman in a given situation are the length of service which he has put in, the quantum of wages, his conduct during the service before his services were terminated, the number of years which he would have served the Organization in case he would have been granted reinstatement, etc. No comprehensive list of factors can be laid down.

7. Coming back to the facts of the present case, the petitioner in the present case admittedly had served the Organization only for a period of roughly four years. It has not come on record in the award as to what was his last drawn wages nor has it come on record as to what was the total quantum of service which was yet to be served by him. A perusal of the statement of claim shows that the petitioner was getting an amount of Rs. 1,000/- as salary initially and which was ultimately raised around Rs. 1,495/- or so. Thus keeping in view the last drawn wages, which was approximately Rs. 1,500/- and the total services rendered by the petitioner, this Court is of the opinion that the amount of compensation of Rs. 40,000/-, which was awarded by the learned Labour Court was just, fair and reasonable.

8. So far as the judgment which has been relied upon by the Counsel for the petitioner wherein a compensation of Rs. 75,000/- was granted. The total number of years of services which the petitioner in the said case had rendered was 11 years. In addition to this, the monthly wages of the employee in the said case were also Rs. 3,070/- which was much higher than the last drawn wages of

the petitioner in the present case. Therefore, the facts of the case relied upon by the petitioner are distinguishable from the facts of the present case.

9. On the contrary, there are judgments of the Apex Court wherein it has granted a compensation of just Rs. 30,000/- in lieu of reinstatement and payment of back wages. Reliance in this regard is placed on Nagar Mahapalika (Now Municipal Corpn.) Vs. State of U.P. and Others, and I.T.C. Ltd., Monghyr, Bihar Vs. Presiding Officer, Labour Court, Patna (Bihar) and Others, . There is yet another case where only a compensation of Rs. 10,000/- was given by the Apex Court. This is a case titled Branch Manager, M.P. State Agro Industries Development Corpn. Ltd. and Another Vs. Shri S.C. Pandey, .

10. For the forgoing reasons, I am of the considered opinion that the quantum of compensation of Rs. 40,000/- is just, fair and reasonable keeping in view the wages of the petitioner and the total number of years of service rendered by him with the respondent/Organization.

11. Accordingly, the writ petition is without any merit and the same is dismissed.

12. The respondents are directed to pay the aforesaid amount within four weeks from today failing which it shall carry interest @ 7% per annum from the date of the award till the date of realization of the amount.

No order as to costs.