
(2012) 08 DEL CK 0029
In the Delhi High Court
Case No : LPA No. 585 of 2012

Vijay Singh

APPELLANT

Vs

D.T.C.

RESPONDENT

Date of Decision : 24-08-2012

Acts Referred:

Industrial Disputes Act, 1947 — Section 25(F)

Citation : (2012) 08 DEL CK 0029

Hon'ble Judges : Pradeep Nandrajog, J; Manmohan Singh, J

Bench : Division Bench

Advocate : Anil Mittal and Mr. Amritansh Bhateja, for the Appellant; Latika Chaudhary, Advocate for Ms. Avnish Ahlawat, for the Respondent

Judgement

Pradeep Nandrajog, J.—Heard learned counsel for the parties. As per award dated August 08, 1996, the Industrial Adjudicator found appellant's service being terminated by DTC to be illegal and as a consequence directed reinstatement with back wages.

2. Vide impugned judgment dated July 11, 2012, the learned Single Judge has denied back wages and in lieu thereof has directed lump-sum compensation in sum of Rs. 2 lakhs. Reason is that the appellant joined service as a driver somewhere in the year 1989 and his services were terminated initially on February 19, 1990. Re-employed, but on daily wages on July 09, 1990, the services were terminated once again on October 18, 1992. The learned Single Judge has noted that notwithstanding the appellant not being a permanent employee, had served for more than 240 days in the preceding year and thus the termination offended Section 25(F) of the I.D. Act 1947. It is in this backdrop that back wages have been denied and in lieu Rs. 2 lakhs lump-sum has been directed to be paid.

3. Now, the award not being stayed till the writ petition was disposed of, the appellant was reinstated in service on May 26, 1998 but was brought into the regular pay-scale only with effect from June 01, 2004. The learned Single Judge,

in para 6 has opined that only for the purposes of retiral benefits, the appellant shall be deemed to be in service from the date he re-joined.

4. Learned counsel for the appellant urges that paragraph 6 of the impugned decision is being interpreted by the department to mean that upon being reinstated in service, the appellant would be entitled to be brought in the regular pay-scale with effect from June 01, 2004, notwithstanding the appellant re-joining with effect from May 26, 1998.

5. It may be true that the post award dispute is a subsequent event, but it cannot be lost sight of that the award, insofar reinstatement has been directed, has not been set aside by the learned Single Judge and thus said part of the award requires complete implementation, and if looked at from said angle, it cannot be said that the dispute pertains to a subsequent event.

6. Learned counsel for the appellant says that the appellant would be satisfied if benefit of continuity in service is granted to the appellant with effect from May 26, 1998 i.e. the date when he was reinstated in service, and this concession we find is a very fair offer.

7. We dispose of the appeal directing that upon reinstatement with effect from May 26, 1998 the appellant would be brought in the regular pay-scale requiring the appellant to be paid wages in the scale applicable to the post of a driver and annual increments.

8. The necessary amount payable to the appellant be calculated by re-fixing his pay by giving him annual increments each year and paid with 12 weeks from today, failing which the amount payable would bear simple interest @10% per annum reckoned from 12 weeks hereinafter till payment is made. No costs.