

(2012) 08 DEL CK 0200

Delhi High Court

Case No: LPA No. 576 of 2012

Sh. Praveen Kumar

APPELLANT

Vs

M/s Delhi State Industrial
Infrastructure Development
Corporation Ltd.

RESPONDENT

Date of Decision: Aug. 21, 2012

Acts Referred:

- Industrial Disputes Act, 1947 - Section 25F

Hon'ble Judges: Rajiv Sahai Endlaw, J; A.K. Sikri, J

Bench: Division Bench

Advocate: Madhav Khurana and Mr. Amit Sharma, for the Appellant; Anusuya Salwan and Ms. Renuka Arora, for the Respondent

Judgement

Rajiv Sahai Endlaw, J.

This intra-court appeal impugns the judgment dated 25.05.2012 of the learned Single Judge in W.P.(C) No. 13123/2006 preferred by the respondent against the award dated 22.02.2006 of the Industrial Adjudicator. The Industrial Adjudicator had vide the said award held the termination by the respondent of the services of the appellant to be illegal and directed the respondent to reinstate the appellant with continuity of service and full back wages. The learned Single Judge, in the impugned judgment, though has upheld the finding of the Industrial Adjudicator of the termination of the services of the appellant to be illegal but has held that the relief granted by the Industrial Adjudicator of reinstatement with full back wages to be not at all justified in the facts and circumstances of the case. Accordingly, the learned Single Judge has set aside the direction of the Industrial Adjudicator of reinstatement with full back wages and substituted the same with a direction for payment by the respondent to the appellant of monetary compensation of Rs. 50,000/- in lieu of reinstatement with full back wages. The reasons which prevailed with the learned Single Judge for so substituting the relief were, that the appellant

workman was employed with the respondent as an electrician on muster roll from 19.11.1998 till his service were terminated with effect from 17.11.2000 i.e. for barely about two years and the illegality in the termination was technical i.e. non compliance with the mandatory provisions of Section 25F of the Industrial Disputes Act, 1947. The learned Single Judge traced the case law right from the year 1960 till the year 2009 and found that the Courts have consistently held that the relief of reinstatement and back wages should not be granted mechanically after holding the termination of service to be illegal and more so in the case of daily wagers; monetary compensation is more appropriate in such cases.

2. The counsel for the appellant has contended that once the learned Single Judge had agreed with the finding of the Industrial Adjudicator of the termination of the services of the appellant being illegal, the learned Single Judge ought not to have interfered with the relief granted. It is further submitted that the natural corollary of the termination being illegal, is reinstatement with back wages. It is yet further argued that the respondent had regularized the Muster Roll / Daily Wagers who were working for over six years and the appellant also thus had a right of regularization. Lastly, it is contended that the monetary compensation awarded of Rs. 50,000/- is inadequate.

3. We are not impressed with any of the aforesaid contentions. The learned Single Judge has exhaustively dealt with the case law in this regard and rightly applied the same. After the judgment of the Constitution Bench in [Secretary, State of Karnataka and Others Vs. Umadevi and Others](#), no Daily Wager / Muster Roll employee can be said to be having any vested right of regularization. As far as the plea of inadequacy of the monetary compensation is concerned, we do not feel the need to interfere with the assessment made by the learned Single Judge particularly when the appellant had worked barely for a couple of years with the respondent and that too more than 12 years ago. We therefore do not find any merit in this appeal and dismiss the same. Having considered the matter on merits, the delay in filing and re-filing the appeal is condoned.

No costs.