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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 19<sup>th</sup> March, 2025*

+ **LPA 808/2013**

JASWANT SINGH & ORS. ....Appellants

Through: Mr. Daleep Dhyani, Adv.

versus

M/S NARANG INTERNATIONAL  
HOTELS PVT. LTD.

.....Respondents

Through: Mr. Saumitra Singhal, Adv.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUSTICE RAJNEESH KUMAR GUPTA**

**Prathiba M. Singh, J.(ORAL)**

1. This hearing has been done through hybrid mode.
2. The present Appeal has been filed under Clause 10 of the Letters Patent challenging the order dated 9th September, 2013 passed by the Id. Single Judge by which the Id. Single Judge has upheld the award dated 7th May, 2011 passed by the Labour Court.
3. The brief background is that twenty-two employees, Appellants herein, were retrenched, by the Respondent-M/s Narang International Hotels Pvt Ltd. (hereinafter 'the Company'). They had preferred a claim before the Labour Court seeking reinstatement with back wages. The prayer in the claim petition is as under:

*“It is therefore prayed that the management be directed to reinstate the workman in service with continuity of service and full back wages @of the wages being paid to the likewise category of the workmen as per the*



*settlement and other benefits and AWARD may very kindly be passed in favour of the workmen and against the management. It is prayed accordingly.”*

4. Upon hearing parties, *vide* award dated 7th May, 2011, the Labour Court had awarded a lump sum compensation along with litigation costs in the following terms.

*“45. After considering the length of services, last drawn wages, the resources consumed in this legal battle value of money in 2011 as compared to 1991, the following amount of compensation is allowed to be paid to each of the workman:-*

*TABLE NO.2*



Sl. No	NAME	DATE OF APPOINTMENT	POST	LAST DRAWN SALARY ₹	DATE OF TERMINATION	COMPENSATION ALLOWED ₹
1	JASWANT SINGH	19.06.90	HYGINE ATTENDANT	650/- P.M.	15.02.1991	13,000
2	RAM PARVESH YADAV	22.05.89	WASHING ATTENDANT	750/- P.M.	15.02.1991	30,000
3	DINESH SINGH	21.06.1990	FLIGHT ATTENDANT	650/- P.M.	15.02.1991	13,000
4	VIKRAM SINGH	25.05.89	FLIGHT ATTENDANT	650/- P.M.	15.02.1991	26,000
5	PARIMAL MOHAN	18.04.89	DO	700/- P.M.	15.02.1991	24,000
6	OM PRAKASH	26.3.89	DO	700/- P.M.	15.02.1991	24,000
7	RAM CHANDER	29.3.89	DRIVER	1000/- P.M.	15.02.1991	40,000
8	BHAGIRATH	22.5.89	WASHING ATTENDANT	700/- P.M.	15.02.1991	24,000
9	RAJBIR SINGH	3.7.89	HELPER	800/- P.M.	15.02.1991	32,000

70/10/12 S. M.



Sl. No.	NAME	DATE OF APPOINTMENT	POST	LAST DRAWN SALARY ₹	DATE OF TERMINATION	COMPENSATION ALLOWED ₹
10	BASHIR AHAMAD	23.1.88	PAINTER	1000/- P.M.	15.02.1991	60,000
11	KRISHAN BAHADUR	22.5.89	FLIGHT ATTENDANT	650/-	15.02.1991	26,000
12	OM SHARAN PAL	14.3.88	WASHING ATTENDANT	700/- P.M.	15.02.1991	42,000
13	MANGE RAM	20.9.88	STORE ATTENDANT	700/- P.M.	15.02.1991	35,000
14	PREM SINGH	5.4.88	PANTRYMEN	700/- P.M.	15.02.1991	42,000
15	RAM KISHAN S/O SH. JAGRAM	14.3.88	FLIGHT ATTENDANT	700/- P.M.	15.02.1991	42,000
16	RAM KISHAN II S/O SH. PRASADI SINGH	10.04.89	WASHING ATTENDANT	700/- P.M.	15.02.1991	28,000
17	MAHIPAL SINGH	8.3.89	FLIGHT ATTENDANT	700/- P.M.	15.02.1991	28,000
18	BAHAGWAT DIN	1.11.89	WASHING ATTENDANT	700/- P.M.	15.02.1991	21,000
19	RADHE SHYAM	24.1.89	DO	700/- P.M.	15.02.1991	28,000
20	MUNNA LAL	14.10.89	HYGINE ATTENDANT	700/- P.M.	15.02.1991	21,000
21	SANJEEV KUMAR	8.4.89	HYGINE ATTENDANT	700/- P.M.	15.02.1991	28,000
22	RAJESH KUMAR	03.10.88	HANDYMAN	700/-PM	15.02.1991	35,000

46. Each of the workmen in table 2, be also given



*a sum of Rs.15,000/- litigation charges which they had to enter into because of illegal and high handed practices of the Management. No back wages are allowed as there is no such prayer in the original claims and the application of the workmen to amend their claims was turned down by this court vide its orders dated 11.03.2011.”*

5. It is this award, which was challenged before the Id. Single Judge. The Id. Single Judge came to the conclusion that the employees were daily wagers, who were employed 25 years back and relief of reinstatement was, therefore, not found justifiable. Thus, the monetary compensation granted to each was considered reasonable at that time. The writ petition was, accordingly, dismissed. The operative portion of the impugned judgment reads as under:

*“Contention of the petitioners is that once the Industrial Adjudicator had arrived at a conclusion that termination was illegal workmen ought to have been reinstated with full back wages. It is submitted that no other course was open to the Industrial Adjudicator except to order for reinstatement. Reliance has been placed on Anup Sharma vs. Executive Engineer, Public Health Division No. 1, Panipat (Haryana) (2010) 5 SCC 497.*

***I do not find much force in this contention of petitioner. Reinstatement with full back wages in every case where termination has been held illegal is not the only course available. Reinstatement with back wages is not an automatic consequence in all the cases where termination is held illegal or contrary to the rules. Each case has been viewed in its own facts. In Senior Superintendent Telegraph (Traffic), Bhopal vs. Santosh Kumar Seal and Others, (2010) 6 SCC 773, Apex Court held thus, "In the last few years it has been consistently held by the Supreme Court that relief by way of reinstatement with back wages is not automatic even if***



*termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that monetary compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate."* **In the said case, keeping in mind that workmen were engaged as daily wagers about 25 years back and they worked hardly for two or three years, relief of reinstatement with back wages was not found justifiable and instead monetary compensation for '40,000/- (Rupees Forty Thousand Only) was considered sufficient to meet the ends of justice.....**

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.....The Supreme Court referred to several judgments for taking a view that reinstatement and back wages were not automatic, merely because the termination was found to be illegal or in contravention of Section 25-F of the Act. A Single Judge of this Court in *Sub Divisional Officer vs. Babu Lal & Ors, MANU/DE/1860/2013*, held that reinstatement of workman with 25% of back wages, who had worked for three years was not justified and awarded compensation of '1 lac' in lieu of reinstatement and back wages. In *Talwara Co-operative Credit and Service Society Limited vs. Sushil Kumar (2008) 9 SCC 486*, Supreme Court held thus, "grant of a relief of reinstatement, it is trite, is not automatic. Grant of back wages is also not automatic. No other argument advanced nor any other point pressed.

**In view of above discussion, I do not find any manifest error of law or jurisdiction in the impugned Award, consequently, writ petition is dismissed."**

6. In the present Appeal, notice was issued on 29<sup>th</sup> October, 2013 on the ground that the Supreme Court in *Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D.ED.) and Ors., (Civil Appeal No.6767/2013 decided on 13th August, 2013)*, had held that reinstatement ought to be granted to such workers.



7. The appeal was admitted on 19<sup>th</sup> December, 2013. At that time, the Respondent was duly represented by their lawyer Mr. Saumitra Singhal, advocate. The matter was, thereafter, renotified and adjourned from time to time. An application for early hearing was filed on 6<sup>th</sup> December, 2022. Notice was issued in the same. Since then, the matter has been pending adjudication.

8. Today, Mr. Daleep Dhyani, Id. Counsel for the Appellant submits that the error in the award is that no back wages were granted by the Labour Court and only a lump sum compensation with litigation costs has been awarded. He relies upon *Deepali Gundu Surwase (supra)* once again to argue that in such cases the back wages ought to be granted.

9. On the other hand, Mr. Singhal Id. Counsel for the Respondent-Company submits that the Claimant-Appellants had not pleaded or shown in the claim petition before the Labour Court that they were unemployed during the period between retrenchment and the final award. In fact, an amendment application which was moved by the Claimants, was rejected by the Labour Court *vide* order dated 11<sup>th</sup> March, 2011. He further submits that the Claimants, having not proved that they were unemployed during the period of litigation before the Labour Court, cannot be entitled to back wages.

10. The Court has considered the matter. A perusal of the Labour Court records would show that the claim petition was filed way back in 1991. Evidence was recorded in the matter and the matter was listed for final arguments on 23<sup>rd</sup> September, 2002. Arguments had commenced and the matter continued to be adjourned for one reason or the other for a decade. When last opportunity was given to the workers to complete their arguments in the case *vide* order dated 13<sup>th</sup> October, 2010, an application under Order



VI Rule 17 CPC praying amendment of the claim, came to be filed. The said application, as mentioned above, was dismissed *vide* order dated 11th March, 2011. The Labour Court in the said order also records that the Appellants/Claimants did not make any statement in their claim petition that they were unemployed during the said period and the same was sought to be added via the amendment application. Relevant portion of the said order is set out below:

*“Whether the termination of services of S/Sh. Jaswant Singh, Ram Parvesh Yadav, Dinesh Singh, Shiv Kumar, Mahabir Singh, Vikram Singh, Parimal Mohan Karal, Om Prakash, Ram Chander, Bhagirath Singh, Raj Bir Singh, Bashir Ahmed, Krishan Bahadur Khattri, Om Saran Pal, Manage Ram Chauhan, Prem Singh, Ram Kishan, Ram Kishan - II, Mahipal Singh, Pappu, Shyam Bir, Rajesh Kumar, Bhagwati Din, Uma Shanker Singh, Mahinder Singh, Jalal, Radhey Shyam, Munna Lal, Subhash Chander, C. Maheshwar, Manoj Kumar, Sanjeev Kumar Singh, Ram Lakhan and Shri Prasad is illegal and / or unjustified and if so, to what relief are they entitled and what directions are necessary in this respect?”*

*Initially this was a reference of an industrial dispute raised by the aforesaid workmen against the Management M/s. Narang International Hotels Private Limited. The industrial dispute was raised in the year 1991. The pleadings were complete and the issues were framed by the Id. Predecessor vide its orders dated 13.12.2008 :-*

- 1. Whether the trainees are workmen or not under the provisions of the Industrial Disputes Act?*
- 2. As per terms of reference.*
- 3. Relief.*



*In this case WE was completed on 06.02.2001 and thereafter the evidence of the Management was also completed on 14.08.2002.*

*The case was listed for final arguments on 23.09.2002 for the first time. The arguments were started and were repeated a number of times since then. Thereafter for almost a decade the case was listed for final arguments but the final arguments were not completed for one or the other reason. On 13.10.2010 this court fixed the last opportunity for the workmen to argue their case. Thereafter on 27.11.2010, the workmen came up with an application U/O VI Rule 17 r/w Section 151 CPC and Section 11 of the Industrial Disputes Act thereby seeking an amendment in their claim.*

***Through this application, the woekmen wanted to include a particular plea in their claim petitions that they remained unemployed during this entire period of pendency of this claim.***

*Ld. counsel for the Management argued latches and delay against the woekmen.*

*This court has heard submissions of both the parties. It has also gone through their original pleadings, the amendment application and the grounds which they have taken during the course of their oral arguments. It is for the courts to see that the law is followed. It is for the courts to ensure that the justice be done. But this prevalence of the law and the justice must not be a subterfuge or a mere refraction rather it ought to subsist for all the concerned ones in a live and vibrant mode. The justice envisaged ought not be based only upon the law or the legal principles, but it should find support from the equity and fair play also.*

*In the present case this application of the woekmen*



*surfaced in the court after about a decade since the Management's evidence was completed.*

*Ld. counsel for the Management had taken this particular plea of employment of the workmen several times during the course of his final arguments. All the cards of the Management have already been displayed. The workmen have moved this application after being familiar with all pleadings, evidence and arguments of the Management. They are at this stage also, familiar with the lacunae in their case. The purpose of all the workmen appear, through their this application is to cure all those lacunae which were their right from the inception of this industrial dispute but were never attended to by them. These lacunae thereafter were identified and pointed out by the Management during the course of final arguments. If the application of the workmen is allowed, it would annul the entire Management's case against them and hence would topple down the hard work of the Management for last more than 10 years.*

*This court does not find this application conforming to the provisions of law or ensuring the ends of justice. This is also not supported by the equity or fair play.*

*For the reasons given above, this court dismisses the application of the workmen.”*

11. In the opinion of this Court, the Appellants cannot claim back wages without having established on record that they were unemployed or partially employed during the said period. Thus, there is no infirmity in the order itself in terms of fixing lumpsum compensation based upon the job profile of each of the Appellants/Claimants. The award and the judgment of the Id. single judge, therefore, do not warrant interference.



12. However, the unfortunate position is that all 19 Appellants still have not been paid the respective compensation amounts awarded to them by the Labour Court *vide* order dated 7th May, 2011. Ld. Counsel for the Management, upon a query from the Court, submits that the Management had written to the Union to call upon the concerned employees to come and receive the payments. Though some of the employees received the payment, the Appellants/Claimants failed to receive it.

13. This Court finds it quite unacceptable that when the LPA itself has been pending for the last more than 12 years, no offer of payment has been made even through the Counsel for the Appellants/Claimants. Under these circumstances, this Court is inclined to award interest on the compensation awarded by the Labour Court and the litigation costs @ 6% simple interest per annum from the date when notice was accepted by the Management in this appeal *i.e.*, 19<sup>th</sup> December, 2013. In addition, each of the Claimants shall be paid a sum of Rs.10,000/- as litigation costs in the present appeal. The amounts due shall be paid to the Petitioners by 30<sup>th</sup> May, 2025.

14. With this modification, the appeal is allowed and disposed of. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH**  
**JUDGE**

**RAJNEESH KUMAR GUPTA**  
**JUDGE**

**MARCH 19, 2025/dk/Ar.**