



2026:DHC:7657



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 07th September, 2026*

CNR No. DLHC010643932005

+ W.P.(C) 10997/2005 & CM APPL. 9938/2012CENT.GOV.T.EMPLOYEES
CONSUMER C

.....Petitioner

Through: Mr. Dipak K Nag &
Ms. Apurva Upmanyu, Advs.

versus

OM PRAKASH & ORS.

.....Respondents

Through: Mr. Chirayu Jain &
Ms. Onaizha Habeeb, Advs.**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present petition is filed under Articles 226/227 of the Constitution of India, assailing the award dated 16.11.2004 (hereinafter referred to as the '**Impugned Award**') passed in I.D. No. 500/1997, whereby the Learned Labour Court directed reinstatement along with the continuity of service of the workman/Respondent and 50% of backwages w.e.f July 1996.

2. Briefly stated, *vide* appointment letter dated 21.12.1989, the workman was engaged as a *helper* on probation for a period of one year, which was further extendable, subject to the workman's *satisfactory* performance.



3. *Vide* order dated 13.04.1991, the workman was terminated from service due to *unsatisfactory performance*. Since the workman was on probation, there was no domestic inquiry or charge sheet against the workman/Respondent.

4. Thereafter, the workman filed Writ Petition No. 2962 of 1992 before this Court. *Vide* order dated 03.05.1995, this Court observed that the probation period of the workman was extended and, during the period of probation, the services of the workman were not found to be satisfactory and that the workman has alternative more efficacious remedy by approaching the Industrial Tribunal or filing a civil suit, as envisaged and that it is not possible to go into the disputed question of fact while granting the workman the liberty to take appropriate legal remedy while dismissing the same.

5. Pursuant thereto, the workman raised an industrial dispute under Section 10(1)(c) and 12(5) of the Industrial Disputes Act. On 03.06.1997, the below-mentioned point of adjudication was referred:

“Whether the services of Sh. Om Prakash have been terminated illegally and/or unjustifiably by the management, and if so, to what relief is he entitled and what directions are necessary in this respect?”

6. The learned Labour Court framed issues, which are as follows:

“i) As per terms of Reference”

7. The learned Labour Court on 16.11.2004 passed the impugned award wherein the termination of the workman’s service after completion of the probation period without following Section 25(f) of the Industrial Disputes Act was held illegal and unjustified. It was directed that the workman be reinstated in service with 50% back wages from July, 1996.



8. Aggrieved thereby, the present petition has been filed.
9. The learned counsel for the Petitioner submits that the workman was appointed against a temporary post on probation for one year and was never confirmed in service.
10. He submits that the workman was appointed as *Helper* on probation w.e.f. 21.12.1989 for one year, extendable on terms and conditions laid down in the appointment letter. Settled jurisprudence holds that confirmation does not occur *ipso facto* merely because the probation period lapses without an express order; continuation in service after expiry of the initial period does not, by itself, amount to confirmation, especially where the employer's practice (as with Sh. Surender Singh Negi, confirmed by a specific Memo) shows confirmation is always by express order.
11. *Per contra*, learned counsel appearing on behalf of the workman vehemently opposes the present petition and submits that the workman had initially joined the services of the petitioner in the year 1985 and not in 1989, as alleged by the Petitioner. He contends that the termination of the workman was illegal and arbitrary, as the mandatory procedure prescribed under law was not followed by the Petitioner before dispensing with his services.
12. He submits that the workman pursuant to the impugned award, was reinstated in service and has been continuously discharging his duties and drawing salary till date. However, the workman is aggrieved to the limited extent that he has not been granted back wages for the period from 1991, when his services were terminated, till 29.05.2005. He contends that the workman has been awarded back



wages only from the year 1996, thereby depriving him of the wages for the intervening period from 1991 to 1996. The amount of back wages claimed for the period up to 29.05.2005 is stated to be ₹2,79,963/-. In support of his submissions, he places reliance upon the judgment of **Delhi Cantonment Board Versus Central Govt. Industrial Tribubal & Ors, 2006 (8) DRJ 75(DB)**.

13. I have heard both the parties and perused the material placed on record.

14. The workman was appointed as a *Helper* on probation for a period of one year, in terms of the appointment letter which is on record. His services were terminated vide order dated 13.04.1991, during the period of his probation, on the ground that his work and conduct were found unsatisfactory. The workman raised no claim or demand for over five years and issued a demand notice for the first time only on 11.07.1996, pursuant to which the Claim Petition came to be filed. The learned Labour Court, vide the impugned Award dated 16.11.2004, directed reinstatement of the workman with 50% backwages, *inter alia* on the ground that the procedure prescribed under Section 25-F of the Industrial Disputes Act, 1947 had not been complied with before termination.

15. It is well settled in law that even where a workman is on probation, the protection of Section 25-F of the Industrial Disputes Act, 1947 is attracted the moment such workman has rendered 240 days of continuous service in the preceding twelve months, since Section 25-F draws no distinction between a permanent, temporary, or probationary employee for the purpose of its applicability.



Consequently, the mere fact that the workman was on probation at the time of termination did not absolve the Petitioner of the obligation to comply with the requirements of Section 25-F, once the threshold of 240 days of continuous service stood satisfied. The reliance has been rightly placed by the learned counsel for the workman on **Delhi Cantonment Board v. Central Govt. Industrial Tribunal & Ors., 2006 (8) DRJ 75 (DB)**.

16. The learned Labour Court, in the impugned Award, has rightly held that the requirements of Section 25-F had not been duly complied with by the Petitioner before effecting the termination of the workman. This finding, as recorded by the learned Labour Court, forms the very basis on which reinstatement with 50% backwages came to be granted.

17. It is an admitted fact that, while terminating the services of the workman on 13.04.1991, the Petitioner did not pay any retrenchment compensation. On the basis of these undisputed facts, the learned Labour Court rightly held that the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 had been violated. The Labour Court observed that the workman had completed 240 days of continuous service and was therefore entitled to the protection of Section 25-F, even though he was on probation.

18. However, even assuming that there was non-compliance with the procedure under Section 25-F of the Industrial Disputes Act, 1947, such non-compliance, by itself, does not automatically entitle a workman to the relief of reinstatement with backwages. Non-compliance with Section 25-F of the Industrial Disputes Act, 1947 is a



procedural infirmity, and the consequence thereof is ordinarily compensatory in nature, and not restorative. The Hon'ble Apex Court has repeatedly held that reinstatement is not an automatic or mechanical consequence of an order of termination being held illegal and that the relief must be moulded having regard to the nature of employment, length of service and the surrounding circumstances of the case. Reference in this regard can be made to the decision of the Hon'ble Apex Court in **Allahabad Bank v. Krishan Pal Singh : (2021) 19 SCC 227**. The relevant extract of the same is reproduced hereinbelow:

“8. The directions issued by the High Court of Allahabad for reinstatement were stayed by this Court on 23-8-2019 [Allahabad Bank v. Krishan Pal Singh, 2019 SCC OnLine SC 2061] . During the pendency of these proceedings, the respondent workman had attained age of superannuation. Though, there was strong suspicion, there was no acceptable evidence on record for dismissal of the workman. However, as the workman has worked only for a period of about six years and he has already attained the age of superannuation, it is a fit case for modification of the relief granted by the High Court. The reinstatement with full back wages is not automatic in every case, where termination/dismissal is found to be not in accordance with procedure prescribed under law. Considering that the respondent was in effective service of the Bank only for about six years and he is out of service since 1991, and in the meantime, respondent had attained age of superannuation, we deem it appropriate that ends of justice would be met by awarding lump sum monetary compensation. We accordingly direct payment of lump sum compensation of Rs 15 lakhs to the respondent, within a period of eight weeks from today. Failing to pay the same within the aforesaid period, the respondent is entitled for interest @ 6% p.a., till payment.”

19. Hence, it is well crystallised that where the facts so warrant, the Court is empowered to award monetary compensation in lieu of



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reinstatement, in such cases where reinstatement is not feasible and where such relief of compensation would better serve the ends of justice.

20. In view of the aforesaid discussion, though this Court upholds the finding of the learned Labour Court that the discontinuation of the workman's services was illegal and unjustified, it deems it appropriate to modify the awarded relief, especially considering that the workman's services came to be discontinued in the year 1991 and almost three decades have elapsed thereafter. Undisputedly, the workman has also superannuated on 15.08.2026 after being reinstated pursuant to order under Section 17B of the Industrial Disputes Act, 1947, and therefore the relief of reinstatement cannot be altered at this stage.

21. In the opinion of this Court, in the facts and circumstances of the present case, ends of justice will be met if the workman is awarded a lump-sum compensation of ₹1,00,000/- in *lieu* of back wages. The said amount shall be paid by the petitioner within a period of eight weeks from the date of this order.

22. Accordingly, the impugned award is modified.

23. The petition stands disposed of in the aforementioned terms. Pending application(s), if any, also stand disposed.

AMIT MAHAJAN, J

SEPTEMBER 7, 2026

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