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

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*Judgment Reserved on: 08.12.2025*

*Judgment pronounced on: 11.12.2025*

+ W.P.(C) 3013/2007, CM APPL 27131/2021 & CM APPL 27130/2021  
DEVELOPMENT COMMISSIONER & ANR .....Petitioners

Through: Mrs. Avnish Ahlawat, Standing  
Counsel (GNCTD) with Mr. Nitesh  
Kumar Singh, Ms. Aliza Alam and  
Mr. Mohnish Sehrawat, Advocates.

Versus

BHUP SINGH

.....Respondent

Through: None.

**CORAM:**

**HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA**

**JUDGMENT**

**CHANDRASEKHARAN SUDHA, J.**

1. This writ petition under Articles 226 and 227 of the Constitution of India has been filed by the management in ID No. 94/2003 on the file of the Court of Presiding Officer, Industrial Tribunal II, Karkardooma Courts, Delhi (the Tribunal), aggrieved by the Award dated 10.11.2006, by which the termination of the



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workman, namely, Bhup Singh, was held to be illegal and unjustified and so, the management has been directed to reinstate and regularise him in the pay scale in respect of his post, giving him consequential benefits of regularisation from the date of his termination, that is, on 01.08.1987.

2. In this writ petition, the parties will be referred to as described in the statement of claim filed before the Industrial Tribunal.

3. In the statement of claim filed by the workman, it is alleged thus: the workman was initially employed as Mali in the year 1979 and was posted at Dhasa Drain, Rawta, 8 No. Nullah, Najafgarh, Delhi. The workman had been performing his duties duly and faithfully. He had been working continuously from the date of his appointment. His service was terminated with effect from 01.08.1987 on the ground that he indulged in illicit felling and selling of trees at Dhasa Drain, Rawta, 8 No. Nullah,



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Najafgarh, Delhi. No inquiry was conducted and no charge sheet was served on him before he was terminated. At the time of termination of his service, the management did not offer one month's notice or notice pay, compensation, etc., as provided under Section 25F of the Industrial Disputes Act, 1947 (ID Act).

3.1 It was alleged that two of his colleagues, namely, Suresh and Ram Dhan, were also terminated on the same grounds. However, both of them were reinstated by Labour Court No. 8, and the same was dealt with in ID No. 427/1991. The workman herein did not raise a dispute, though all along he had approached the management from time to time at different levels for reinstatement of his service. But the management refused to reinstate him in service. Due to his ignorance of law, the workman did not raise any industrial dispute or file writ petition before the appropriate forum.

3.2 At the time of his engagement, he was paid only



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minimum wages, fixed for unskilled workmen from time to time. At the time of his termination, all the daily wagers were being granted equal pay for equal work with effect from 01.10.1988, including DA, HRA, interim relief, CCA, etc. Several workers, junior to the workman, were also regularised with effect from 01.03.1991 in the time scale by the management. However, the workman was never reinstated in service. As his termination was without holding an inquiry and without following the procedure prescribed under Section 25F(a)(b) of the ID Act, it is illegal and unjustified.

3.3 The Managing Committee of DDH Mazdoor Union, in its meeting held on 01.01.2002, resolved to raise an industrial dispute in respect of the workman relating to his wrongful and illegal termination from service. The Managing Committee also granted espousal to Shri B.K. Prasad, President of DD Mazdoor Union, to file the claim. Thus, it was prayed that the workman be



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reinstated with effect from 01.08.1987 with full back wages and continuity of service with all consequential benefits; regularisation of service as Mali in the appropriate pay scale with effect from 01.03.1991, that is, the date on which the services of his junior colleagues were regularised in the time scale and for consequential reliefs.

4. The management filed their written statement contending that the claim was not maintainable as the workman was a daily wage casual labourer, and had never worked as Mali with the management. His services were terminated by the management as he was found to have indulged in illicit felling and selling of trees. An inquiry was conducted, in which it was found that the workman did indulge in illicit felling and selling of trees, which conduct was against the Service and Conduct Rules and hence, with effect from 01.08.1987, his service was terminated.

4.1. The statement of claim is also not maintainable as it is



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barred by the limitation since it was filed after a lapse of more than 14 ½ years after the termination. The workman had neither challenged nor filed any appeal against his termination. The statement of claim is merely an afterthought and as such, liable to be dismissed.

5. On completion of pleadings, necessary issues were raised by the Tribunal. The parties went to trial on the basis of the aforesaid pleadings. The workman examined himself as WW1 and the President of the Delhi Development Horticulture Mazdoor Union as WW2. Exhibits WW2/1 and WW2/2 were marked on the side of the workman. On behalf of the management, MW1 was examined.

6. The Tribunal, on consideration of the oral and documentary evidence and after hearing both sides, passed the impugned Award. Aggrieved, the management has challenged the Award in this writ petition.



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7. It was submitted by the learned counsel for the management that the Tribunal should not have entertained the claim under any circumstance, as the same was raised after a lapse of more than 14 ½ years and hence barred by limitation. The Tribunal exceeded its jurisdiction in entertaining the reference and statement of claim, wherein the termination on the basis of misconduct had not been challenged for more than 14 years. The workman was well aware of his rights and remedies, yet he chose not to approach the competent authority or the court for redressal of his grievance, as he was never aggrieved by his termination on the grounds of misconduct. The Tribunal failed to take note of the fact that the workman had not produced even a single representation against his termination. He was well aware that his colleagues had challenged their termination on similar grounds. However, he chose not to join his colleagues or approach the Court individually. The termination order of the workman stood



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confirmed, and hence, he could not have challenged it after more than 14 years. The Tribunal has erred in applying the law of retrenchment to the present case. The present case is one of termination of the workman on the ground of misconduct. As such, the whole Award is bad in law and hence is liable to be quashed.

8. On going through the earlier orders, I find that *vide* order dated 15.12.2010, the matter had been listed in the “regular list”. The petition thereafter came up for hearing on 20.10.2015, on which date none appeared for the parties. On the next date of hearing, i.e., on 02.11.2015 also, there was no representation and hence the writ petition was dismissed for default and non-prosecution.

9. On 12.08.2021, CM APPL. 27130/2021, under Section 151 of the Code of Civil Procedure, 1908, was filed for restoration of the writ petition along with CM APPL. 27130/2021 under Section 5 of the Limitation Act, 1963, for condonation of delay of





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four years and three months (1650 days), by the management. This aspect was never brought to the notice of the Court when the matter came up for hearing. It is only thereafter it has been brought to my notice of the pendency of the aforesaid applications.

10. In the applications, it is alleged that in April 2012, a massive fire broke out in Vikas Bhawan, where the office of the management was located. In the incident, the file relating to the present case was completely lost. Due to the absence of records, the management was unable to ascertain the status or pendency of the writ petition. The officials who were originally dealing with this petition had either retired or been transferred long before, and the officers subsequently posted were not aware of the case. A notice was received from the office of the Labour Commissioner dated 12.03.2018, stating that the workman had filed a petition through the Union on 29.08.2017 and 27.02.2018 claiming the benefit of the Award under Section 33-C (1) of the ID Act. The



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letter of the workman to the Labour Commissioner and the letter of the Labour Commissioner to the management referred to the impugned Award dated 31.05.2017 in I.D No. 94/2003 and that an amount of ₹34,68,692/- was due and recoverable. The management was unable to trace the Award. The management became aware of the actual position on 06.12.2019 only, when they received an advance copy of W.P.(C) No. 12928/2019 filed relating to recovery of the amount, through the Government Counsel.

10.1. When the management contacted the then Government Counsel, who was handling the present petition informed them, by way of letter dated 06.02.2020, that he had resigned from the GNCTD panel sometime in 2010–2011 and had handed over the pending case files to the then Standing Counsel. Immediately thereafter, the application for restoration of the petition, along with the application for condonation of delay, was filed by which time



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COVID set in and lockdown was imposed. Though the applications were e-filed on 22.05.2020 with reference No. 1590134073773/45090 and an advance copy sent to the counsel for the workman, the status of the application could not be found/traced as the system of filing applications through e-filing had changed. The management was therefore constrained to re-file the applications.

11. In the reply to the applications for restoration and condonation of delay, it is contended that the delay is not 1650 days but much more. The writ petition was dismissed on 02.11.2015. The restoration application was filed on 16.08.2021 only and so, there is a delay of 5 years, 9 months, 14 days (2084 days). The allegation that the management was unaware of the Award is incorrect. On 16.06.2017, the workman filed an application specifically referring to the Award dated 10.11.2006 and seeking its implementation. The workman further filed



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applications under 33C(1) of the ID Act on 29.08.2017 and 27.02.2018. On 09.12.2019, the management's counsel appeared before this Court in WP(C) 12928/2019. However, the present applications are filed much thereafter. As no cogent reasons have been shown, the applications are liable to be dismissed, contends the workman.

12. There was no representation for the workman when the matter was taken up for final hearing. Heard the learned counsel for the management. As the pendency of the applications for restoration of the writ petition and the application for condonation of delay were not noticed or brought to the notice of this Court, arguments were heard only on the merits of the writ petition.

13. The allegation that in the year 2012, a fire had broken out in the office of the management resulting in loss of the file is not seen disputed. There seems to be change in the Standing Counsel also. Added to all this came the COVID lockdown. It is also



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alleged that the officers dealing with the case had retired or were transferred. All these factors seem to have caused the delay. It is true that the officials concerned were not vigilant enough. In this case, it needs to be noticed that the workman had also moved the Court quite belatedly. However, the claim was not dismissed on the ground of delay. Therefore, the same yardstick can be applied to the management also. As substantial rights of the parties are involved, the ends of justice require that the matter be decided on merits. Hence, the delay is condoned and the application for restoring the writ petition to file is allowed and I proceed to consider the case on merits.

14. The specific case of the workman/claimant is that he was terminated with effect from 01.08.1987. According to the management, the workman was terminated as he was found to have indulged in illicit felling and selling of trees. The management also contended that an inquiry had been conducted,



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and that in the inquiry, it was revealed that the workman had, in fact, illegally felled and sold trees. The inquiry report has been marked as MW1/1. The said report contains the statement of witnesses and the contractor who cut the trees at the behest of the workman and two of his other colleagues. The contractor is also seen to have paid fine for the same. Pursuant to the said report dated 26.06.1987, the workman was terminated with effect from 01.08.1987.

15. Section 2(oo) of the ID Act defines “retrenchment” as *termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include the circumstances referred to in Clauses (a) to (bb)*. Going by the case of the management, it is a case of termination as the misconduct of the workman was proved in the inquiry conducted. If that be so, Section 25F of the ID Act would not apply because the said



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provision is applicable only in the case of retrenchment and not termination. But if the termination of an employee is based on no inquiry, without charges and not by way of punishment, then it becomes a case of illegal retrenchment, and in such cases, the workman would be entitled to reinstatement with full back wages (**Sachiv, Krishi Upaj Mandi Samiti, Sanawad v. Mahendra Kumar & Anr. 2003 SCC OnLine MP 720**). The Apex Court in the dictum of **Mohan Lal v. Management of Bharat Electronics Ltd., (1981) 3 SCC 225** held that non-compliance with Section 25F of the ID Act renders the termination *ab initio void*, meaning that the workman is deemed to continue in service with all consequential benefits. Reinstatement with full back wages is the natural consequence of an invalid retrenchment.

16. Here, the management relies on Exhibit MW1/1, the inquiry report. However, as noticed by the Tribunal, no charge-sheet is seen given to the workman. No notice or opportunity to



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contest the allegation is seen given to the workman. Therefore, the principles of natural justice are not seen complied with. Hence, it is a case of illegal retrenchment, and therefore, the arguments advanced that it is a case of termination and not retrenchment cannot hold good.

17. Now, the question is, in the facts and circumstances of the case, was reinstatement with back wages and the relief of regularisation the appropriate relief to be granted in favour of the workman?

18. Admittedly, the workman was terminated with effect from 01.08.1987. However, the statement of claim is seen filed in the year 2003, that is, after expiry of more than 16 years. It has come out from the materials on record that two colleagues of the workman had also been terminated on similar grounds. But they challenged the termination before the Labour Court. Pursuant to the same, they were reinstated with back wages and also granted





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regularisation. It is not made clear in the statement of claim as to why the claimant/workman herein never challenged his order of dismissal, and also did not approach the authorities concerned or the Court/Tribunal, even when his colleagues had done so. The workman's case of repeated representations to the management is not supported by any material(s) on record. Therefore, there is an inordinate delay in moving the claim for which no reasons whatsoever have been furnished. However, no provision of law was cited for this Court to conclude that the claim was barred by limitation. Therefore, the Tribunal was right in not dismissing the claim on the ground of delay alone.

19. Now coming to the reliefs granted. As noticed earlier, the Tribunal directed reinstatement as well as regularisation. It is true that back wages have not been ordered. The workman has no case that he remained unemployed all along, which would have been unlikely and improbable also. As the claim is seen filed after more



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than 16 years for which no reasons are furnished, reinstatement along with regularisation does not appear to be just or reasonable. But as the termination is seen to be illegal, award of compensation seems appropriate.

20. In light of the aforesaid circumstances, the impugned Award is modified, and the workman is held entitled to compensation of ₹1,00,000/- to be paid by the management within a period of three months from the date of receipt of a copy of this judgment. If the amount is not paid within the said period of three months, management would be liable to pay interest at the rate of 6% per annum from the date of default till the date of payment.

21. With the aforesaid directions, the writ petition is disposed of. Application(s), if any pending, shall stand closed.

**CHANDRASEKHARAN SUDHA  
(JUDGE)**

**DECEMBER 11, 2025**

*p'ma*