

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 2453 OF 2024
(Arising out of SLP(Civil)No.22375/2019)

VIMAL KUMAR MEHTA

Appellant(s)

VERSUS

M/S ENGINEERS INDIA LTD.

Respondent(s)

O R D E R

Leave granted.

2. Heard Mr. Niraj Gupta, the learned counsel appearing for the appellant (terminated workman). Also heard Ms. Raavi Birbal, the learned counsel appearing for the respondent (Management).

3. The appellant was serving as a Telex Operator with the respondent but then he remained absent from duty from 22.04.1991 to 11.09.1991. The Management asked the appellant-workman to resume his duties and since he had pleaded medical exigencies for his absence, the workman was also asked to have himself examined by the Company's doctor. Eventually the Management having failed to elicit appropriate response from the workman and on his failure to get himself examined by the Company consultant, Dr. K.P. Jain, invoked Clause 4.5 of the *Discipline, Appeal and Certain other Conditions of Service Rules* and on 11.10.1991 (Annexure P-4), struck off the workman's name, from the rolls of the Company.

4. The appellant did not immediately challenge his aforesaid termination order dated 11.10.1991, but belatedly after two years, he raised an industrial dispute. The resultant Reference under Section 10 of the *Industrial Disputes Act, 1947* reads as under:-

“Whether the services of Sh. Vimal Kumar Mehta, S/o Sh. N.R. Mehta 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?”

5. The learned Labour Court in its award dated 24.07.2004 in the ID No.1263 of 1994 observed that although the appellant was absent from duty for some days, it cannot be construed to be a case of abandonment of duty under Clause 4.5 and therefore termination by invocation of Clause 4.5 was held to be unjustified. According to the Court the appellant was physically fit to claim reinstatement. With such finding of wrongful termination, the Labour Court under its award dated 24.07.2004 ordered for reinstatement of the workman with full back wages with all consequential benefits.

6. The aggrieved Management challenged the aforesaid award before the High Court by Writ Petition (C) No. 17858/2004. The learned Judge in the judgment dated 05.03.2018 (Annexure P-8) noted that the appellant was suffering from Ankylosing Spondylitis and his medical condition was certified by AIIMS and also by the Ganga Ram Hospital. However, the Court also observed that the workman remained absent from duties without any sanctioned leave for a considerable period of time and by now a quarter of century has elapsed since the workman and the Management have parted ways. Consequently, in order to accord a quietus to the controversy, lump sum compensation was ordered to be paid to the workman. Such course of action was endorsed by the learned counsel appearing for the management before the learned Single Judge. The management's writ petition accordingly came to be disposed of with the following

order:-

(i) The decision to strike the name of the respondent off the rolls of the petitioner, as communicated to the respondent vide letter dated 11th October 1991, is declared as illegal, and is accordingly quashed.

(ii) The impugned Award, dated 24th July 2004, passed by the Labour Court, is modified by directing the petitioner to pay, to the respondent, 30% of the wages which he would have drawn, had he continued till superannuation. This would be over and above the amount paid, by the petitioner, to the respondent, pursuant to orders of this court, under Section 17-B of the Industrial Disputes Act, 1947, or otherwise, which, needless to say, would not be recovered or adjusted in the payment so directed. Payment, as so directed, shall be made, by the petitioner to the respondent, within a period of 8 weeks from the date of receipt, by the petitioner, of a certified copy of this judgment."

7. The above decision was challenged both by the workman (LPA 233/2018) and also by the Management (LPA 521/2018). The learned Division Bench however dismissed the management's appeal on account of the delayed filing. The LPA filed by the workman challenging the lump sum compensation was also rejected. But 30% of the back wages quantified at Rs.25,80,210/- was made payable to the workman. The quantified sum was in addition to the sum of Rs.13,56,146/- paid to the workman under Section 17B of the Industrial Disputes Act, while the Writ Petition was pending in the High Court.

8. As can be seen from the above, the payable back wages for the workman at 30% was quantified as Rs.25,80,210/-. However, in view of the

travails endured by the workman since his services were terminated on 11.10.1991, the termination which is declared concurrently by all three Courts to be wrongful, we feel that the lump sum towards back wages is somewhat inadequate. It is therefore considered appropriate to specify a sum of Rs.60,00,000/- as total lump sum amount payable to the workman-appellant, by the management. While paying this quantified sum, the earlier amounts i.e. Rs.13,56,146/- (payable under Section 17B of the Industrial Dispute Act) and also the sum of Rs.25,80,210/- (as quantified in the impugned judgment dated 22.01.2019) if already remitted are to be subtracted. In other words, besides the earlier dues of Rs.39,36,356/-, the appellant is held entitled to a further sum of Rs.20,63,644/-. The differential amount should be disbursed by the management to the appellant, within 8 weeks.

9. With the above order, the appeal stands disposed of. Pending application(s), if any, stand closed.

10. This order will bring closure to all other proceedings including the contempt proceedings arising out of termination order.

SLP(C) No. 6225/2020

In view of the order passed today in Civil Appeal No.2453/2024 @ SLP(Civil) No.22375/2019, this Special Leave Petition is disposed of.

Pending application(s), if any, stand closed.

.....J.
[HRISHIKESH ROY]

.....J.
[PRASHANT KUMAR MISHRA]

NEW DELHI
FEBRUARY 14, 2024

ITEM NO.20

COURT NO.6

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 22375/2019

(Arising out of impugned final judgment and order dated 22-01-2019 in LPA No. 233/2018 passed by the High Court Of Delhi At New Delhi)

VIMAL KUMAR MEHTA

Petitioner(s)

VERSUS

M/S ENGINEERS INDIA LTD.

Respondent(s)

WITH

SLP(C) No. 6225/2020 (XIV)

(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 34129/2020
IA No. 34129/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 14-02-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRAFor Petitioner(s) Mr. Niraj Gupta, AOR
Mrs. Anshu Gupta, Adv.Mr. Raj Birbal, Sr. Adv.
Ms. Raavi Birbal, Adv.
Mr. Rajesh Singh, AORFor Respondent(s) Mr. Raj Birbal, Sr. Adv.
Ms. Raavi Birbal, Adv.
Mr. Rajesh Singh, AORUPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order. Pending application(s), if any, stand closed.

SLP(C) No.6225/2020In view of the order passed today in Civil Appeal No.2453/2024 @
SLP(Civil) No.22375/2019, this Special Leave Petition is disposed of.

Pending application(s), if any, stand closed.

(DEEPAK JOSHI)
COURT MASTER (SH)(KAMLESH RAWAT)
ASSISTANT REGISTRAR

(Signed Order is placed on the File)