

Officer Commanding vs.hari Shankar

Officer Commanding vs.hari Shankar

SooperKanoon Citation : sooperkanoon.com/1215517

Court : Delhi

Decided On : Jun-01-2018

Appellant : Officer Commanding

Respondent : Hari Shankar

Advocate for Def. : Mr. Arun Birbal

Advocate for Pet/Ap. : Mr. Kirtiman Singh, Mr. Waize Ali Noor, Mr. Prateek Dhanda, Mr. Jitender Kumar, Mr. Arun Birbal, Mr. Ajay Birbal, Mr. Ajay Respondent, Mr. Ajay Respondent Birbal

Judgement :

IN THE HIGH COURT OF DELHI AT NEW DELHI \$~15 to 18 and 21 to 23 * %
Date of Decision:

01. t June, 2018 + W.P.(C) 2069/2015 & CM No.3731/2015 & 3221/2016 15
OFFICER COMMANDING

... Petitioner

Through: Mr. Kirtiman Singh, CGSC, Mr. Waize Ali Noor, Mr. Prateek Dhanda,
Adv. with Capt. Juhi, Officer Commanding. Mr. Jitender Kumar, Deputy Director,
MOD. versus HARI SHANKAR Respondent Through: Mr. Arun Birbal and Mr.
Ajay Birbal, Advs. + W.P.(C) 2071/2015 & CM No.3735/2015 & 3220/2016 16 THE
OFFICER COMMANDING

... Petitioner

Through: Mr. Kirtiman Singh, CGSC, Mr. Waize Ali Noor, Mr. Prateek Dhanda, Adv. with Capt. Juhi, Officer Commanding. Mr. Jitender Kumar, Deputy Director, MOD. versus MEWA LAL Through: Mr. Arun Birbal and Mr. Ajay Respondent + W.P.(C) 2081/2015 & CM No.3744/2015 & 3222/2016 Birbal, Adv. W.P.(C) 2069/2015, 2071/2015, 2081/2015, 6624/2015 W.P.(C) 6625/2015, 6626/2015 & 6637/2015 Page 1 of 6 17 THE OFFICER COMMANDING

... Petitioner

Through: Mr. Kirtiman Singh, CGSC, Mr. Waize Ali Noor, Mr. Prateek Dhanda, Adv. with Capt. Juhi, Officer Commanding. Mr. Jitender Kumar, Deputy Director, MOD. versus JAI GOVIND Through: Mr. Arun Birbal and Mr. Ajay Respondent + W.P.(C) 6624/2015 & CM No.12085/2015 18 THE OFFICER COMMANDING

... Petitioner

Birbal, Adv. Through: Mr. Kirtiman Singh, CGSC, Mr. Waize Ali Noor, Mr. Prateek Dhanda, Adv. with Capt. Juhi, Officer Commanding. Mr. Jitender Kumar, Deputy Director, MOD. versus CHANDRIKA Through: Mr. Arun Birbal and Mr. Ajay Respondent Birbal, Adv. + W.P.(C) 6625/2015 21 THE OFFICER COMMANDING

... Petitioner

Through: Mr. Kirtiman Singh, CGSC, Mr. Waize Ali Noor, Mr. Prateek Dhanda, Adv. with Capt. Juhi, Officer Commanding. Mr. Jitender Kumar, Deputy Director, MOD. W.P.(C) 2069/2015, 2071/2015, 2081/2015, 6624/2015 W.P.(C) 6625/2015, 6626/2015 & 6637/2015 Page 2 of 6 versus RAM ADHAR YADAV Respondent Through: Mr. Arun Birbal and Mr. Ajay Birbal, Adv. + W.P.(C) 6626/2015 & CM No.12089/2015 22 THE OFFICER COMMANDING

... Petitioner

Through: Mr. Kirtiman Singh, CGSC, Mr. Waize Ali Noor, Mr. Prateek Dhanda, Adv. with Capt. Juhi, Officer Commanding. Mr. Jitender Kumar, Deputy Director, MOD. versus SANT RAM SAROJ Respondent Through: Mr. Arun Birbal and Mr. Ajay Birbal, Adv. + W.P.(C) 6637/2015 & CM No.12107/2015 23 THE OFFICER COMMANDING

... Petitioner

Through: Mr. Kirtiman Singh, CGSC, Mr. Waize Ali Noor, Mr. Prateek Dhanda, Adv. with Capt. Juhi, Officer Commanding. Mr. Jitender Kumar, Deputy Director, MOD. versus HAR GOVIND Through: Mr. Arun Birbal and Mr. Ajay Respondent CORAM: HON'BLE MR. JUSTICE J.R. MIDHA Birbal, Advs. W.P.(C) 2069/2015, 2071/2015, 2081/2015, 6624/2015 W.P.(C) 6625/2015, 6626/2015 & 6637/2015 Page 3 of 6 1.

JUDGMENT

The petitioner has challenged seven awards whereby the Central Government Industrial Tribunal has awarded compensation of Rs.30,000/- to the five workmen and Rs.75,000/- to the two workmen in lieu of reinstatement apart from the litigation cost of Rs.25,000/- to each of the workmen.

2. The respondents worked with the petitioner as casual labour in their godown/storage/watchman/kitchen and their services were dispensed with on 31st October, 1997 whereupon the respondents raised an industrial dispute claiming reinstatement with backwages. The respondents claim to have worked with the petitioner for more than ten years and have completed continuous service of 240 days in a calendar year whereas according to the petitioner, the respondents worked for the period 7 to 14 years as per the details given and they had not completed continuous service of 240 days in a calendar year.

3. The Industrial Tribunal held that the respondents had completed continuous service of 240 days. The Tribunal further held the termination of the service of the respondents to be illegal. However, the learned Tribunal declined the relief of reinstatement and awarded compensation and litigation cost in lieu thereof.

4. The respondents seek reinstatement with back wages. Without prejudice, it is submitted that the reasonable compensation in lieu of the reinstatement and legal cost be awarded to the respondents.

5. This Court is of the view that there is no infirmity in the findings of the Industrial Tribunal holding the termination to be illegal W.P.(C) 2069/2015, 2071/2015,

2081/2015, 6624/2015 W.P.(C) 6625/2015, 6626/2015 & 6637/2015 Page 4 of 6 and awarding compensation in lieu of reinstatement. However, the compensation awarded by the Claims Tribunal is grossly inadequate. This Court is of the view that compensation of Rs.2,00,000/- in lieu of reinstatement apart from legal cost awarded by the Industrial Tribunal would be fair and reasonable, which is acceptable to the respondents.

6. Vide order dated 18th December, 2017, this Court directed the petitioner to seek appropriate instructions in the matter.

7. Mr. Kirtiman Singh, learned Standing Counsel for Central Government submits that the department has agreed in principle to pay Rs.2,00,000/- in lieu of reinstatement to the respondents. It is further submitted that these cases should not be treated as precedent and the questions of law raised by the petitioner in these petitions be left open.

8. In the peculiar facts and circumstances of this case, the compensation of Rs.2,00,000/- in lieu of reinstatement is awarded to each of the seven respondents namely Hari Shankar, Mewa Lal, Jai Govind, Chandrika, Ram Adhar Yadav, Sant Ram Saroj and Har Govind apart from the legal cost of Rs.25,000/- awarded by the Industrial Tribunal to each of the respondents.

9. The Writ Petitions are disposed of in the above terms. However, questions of law raised by the petitioner are left open and these cases shall not be treated as a precedent.

10. Mr. Kirtiman Singh, learned Standing Counsel for Central Government submits that the amount awarded by the Industrial Tribunal has already been deposited with the Registrar General of this Court in terms of order dated 28th September, 2015. The petitioner is directed to deposit the balance amount in terms of this judgment as W.P.(C) 2069/2015, 2071/2015, 2081/2015, 6624/2015 W.P.(C) 6625/2015, 6626/2015 & 6637/2015 Page 5 of 6 well as cost awarded by the Industrial Tribunal (Rs.2,00,000 as compensation plus Rs.25,000/- towards legal cost, minus the amount already deposited) with the Registrar General of this Court within six weeks from today.

11. Upon the aforesaid being made, the Registrar General shall release the amount mentioned above to the respondents within four weeks thereafter.

12. This Court appreciates the assistance rendered by Mr. Kirtiman Singh, learned Standing Counsel for Central Government and Mr. Arun Birbal, learned counsel for the respondents in these matter.

13. Copy of this judgement be given dasti to counsels for the parties under signature of Court Master. JUNE01 2018 ak J.R. MIDHA, J.

W.P.(C) 2069/2015, 2071/2015, 2081/2015, 6624/2015 W.P.(C) 6625/2015, 6626/2015 & 6637/2015 Page 6 of 6

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com