



\$~3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10432/2023**
INDIAN RAILWAY CATERING TOURISM AND CATERING
CORP. LTD.Petitioner

Through: Mr. Puneet Singh Bindra, Mr. Vivek
Kadyan, Ms. Cham Modi and
Mr. Rishabh Gupta, Advocates
versus

SANJAY KUMARRespondent

Through: Mr. Gautam Khazanchi and Ms.
Sumchi Jaisawal, Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
04.02.2026

%

CM APPL. 54566/2023 (under Section 17-B of Industrial disputes Act by the respondent)

1. By way of the present application, the respondent-workman seeks payment of wages in terms of Section 17-B of the Industrial Disputes Act, 1947 read with section 151 of The Code of Civil Procedure, 1908, during the pendency of the present writ petition.
2. The award dated 20.10.2022 passed by the learned Central Government Industrial Tribunal-cum-Labour Court, New Delhi in ID No. 101/2022 held that the petitioner-management had illegally terminated the services of the respondent-workman without conducting a proper domestic



inquiry and imposed a major penalty of dismissal. The Tribunal directed reinstatement of the respondent-workman with back wages and continuity of service and further directed payment of 50% wages for the intervening period between the date of termination and reinstatement. The aforesaid award has been assailed by the petitioner-management by filing the present writ petition and that the award of reinstatement has not been implemented till date.

3. Section 17-B of the Industrial Disputes Act, 1947 mandates that where an award directing reinstatement of a workman is challenged before the High Court or the Supreme Court, the employer shall be liable to pay such workman full wages last drawn, inclusive of any maintenance allowance, during the pendency of such proceedings, provided the workman is not gainfully employed elsewhere and furnishes an affidavit to that effect.

4. The respondent was appointed with the petitioner in the year 2006 and his services were subsequently regularised on 29.04.2009. In the year 2012, he was promoted to the post of Food and Beverage Service Attendant (W-2) and continued to discharge his duties to the satisfaction of the Management. Owing to certain disputes relating to place of posting and alleged unauthorised absence, the respondent was placed under suspension and subjected to disciplinary proceedings. Since the date of the Award i.e. 20.10.2022, the respondent has not been reinstated, nor has he been paid any wages pursuant to the Award.

5. The scope and object of Section 17-B is no longer *res integra*. The provision has been enacted as a measure of social justice to mitigate the



hardship caused to a workman when an award of reinstatement is delayed on account of proceedings initiated by the employer. In this regard, gainful reference can be made to the decision of the Supreme Court judgment of Dena Bank v. Kiritikumar T. Patel¹, the relevant extract is herein below:-

“7. It would be convenient at this stage to set out the provisions contained in Section 17-B of the Act which read as under:

“17-B. Payment of full wages to workman pending proceedings in higher courts.—Where in any case a Labour Court, Tribunal or National Tribunal by its award directs reinstatement of any workman and the employer prefers any proceedings against such award in a High Court or the Supreme Court, the employer shall be liable to pay such workman, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the workman had not been employed in any establishment during such period and an affidavit by such workman had been filed to that effect in such Court:

Provided that where it is proved to the satisfaction of the High Court or the Supreme Court that such workman had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this section for such period or part, as the case may be.”

The Objects and Reasons for enacting the said provisions were as follows:

“When Labour Courts pass award of reinstatement, these are often contested by an employer in the Supreme Court or High Court. It was felt that the delay in the implementation of the award causes hardship to the workman concerned. It was, therefore, proposed to provide the payment of wages last drawn by the workman concerned, under certain conditions, from the date of the award till the case is finally decided in the Supreme Court or High Courts.”

It would thus appear that the object underlying the enacting of the provisions contained in Section 17-B is to give relief to the workman in whose favour an award of reinstatement has been passed by the Labour Court and the said award is under challenge in the High Court or this Court. The said relief has been given with a view to relieve the hardship that would be caused to a workman on account of delay in implementation of the

¹ (1999) 2 SCC 106



award as a result of the pendency of the proceedings in the High Court or this Court. The question for consideration is: what is the extent to which such relief has been granted to a workman under this provision? The Objects and Reasons do not indicate an answer to this question and its answer has to be found in the provisions of the enactment. Since the expression “full wages last drawn” in Section 17-B has been construed by the various High Courts in the decisions referred to above we would briefly refer to the same.

8. A Division Bench of the Karnataka High Court in Visveswaraya Iron and Steel Ltd. v. M. Chandrappa [(1994) 84 FJR 46 : (1994) 1 LLJ 555 (Kant)] has held that the words “full wages last drawn” take into their fold the wages drawn on the date of termination of the services plus the yearly increment and the DA to be worked out till the date of the award. In taking this view, the learned Judges have pointed out that it is not uncommon that the proceedings before the Labour Court linger on for years and in some cases it takes a decade and that if after a decade the full wages last drawn are to be paid from the date of the award during the pendency of the proceedings before the Court at the same rate at which the wages were last drawn by the workman when he was removed, dismissed or terminated from the service, it would cause him great prejudice and injustice and will result in harassment of the workman and that during the last period of 10 years there would be escalations in the cost of living and there would also be increase in the wages paid to the workman doing work of similar nature.”

6. In the present case, the respondent has placed on record an affidavit stating that he has not been gainfully employed in any establishment since the date of the award. No material has been placed on record by the petitioner-management to prima facie demonstrate that the respondent-workman has been employed and has been receiving adequate remuneration so as to deny him the benefit under Section 17-B. In the facts and circumstances of the case, and keeping in view the nature of relief granted under the award dated 20.10.2022, this Court is of the considered opinion that the respondent is entitled to relief under Section 17-B of the Industrial Disputes Act, 1947.



7. Accordingly, the present application is allowed. The petitioner-management is directed to pay 50% of the wages to the respondent-workman in terms of Section 17-B of the Industrial Disputes Act, 1947 from the date of the award and during the pendency of the present writ petition.

8. The aforesaid payment shall be complied with within a period of two weeks from today.

9. The application is disposed of.

W.P.(C) 10432/2023, CM APPL. 40465/2023 and CM APPL. 54450/2023

List on 27.03.2026.

MANOJ KUMAR OHRI, J

FEBRUARY 4, 2026

kb