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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 521/2022

ASHOK KUMAR BHATIA

.....Appellant

Through: Mr.S.N.Kaul, Adv. along with the
appellant in person.

versus

ASSISTANT GENERAL MANAGER, STATE BANK OF INDIA

.....Respondent

Through: Mr.Rajiv Kapur, Mr.Akshit Kapur &
Ms.Riya Sood, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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22.10.2024

CM APPL. 34385/2024 (modification of order dated 16.05.2024)

1. This is an application filed by the respondent seeking modification of order dated 16.05.2024 passed by this Court.
2. Learned counsel for the applicant/respondent submits that the said order erroneously records that the learned Single Judge, whose order has been impugned in the present appeal, had granted the appellant compensation of Rs. 20 lakhs in lieu of reinstatement with full back wages, as directed by the learned Industrial Tribunal. This observation, he submits, is incorrect as the learned Single Judge had not granted the appellant compensation in lieu of reinstatement and had instead come to the conclusion that the appellant's termination from service was justified, but had still proceeded to grant him compensation of Rs. 20 lakhs.



3. Further, the observations of this Court that the appellant had not been paid any amount after his dismissal is also factually incorrect as he has already been paid over Rs. 8 lakhs by the respondent towards his statutory dues including General Provident Fund (GPF) and gratuity. Finally, he contends that once the order passed by the learned Single Judge directing payment of Rs. 20 lakhs to the appellant already stands stayed in the LPA preferred by the respondent/bank being LPA 123/2022, this Court ought not to have directed payment of sum of Rs.7.50 lakhs to the appellant and that too without any security. He, therefore, prays that the order dated 16.05.2024 be modified by recalling the directions issued to the respondent to pay a sum of Rs.7.50 lakhs to the appellant.
4. Having considered the submissions of learned counsel for the applicant/respondent, we may begin by noting paragraph no. 2 of the order dated 16.05.2024. The same reads as under:-

“2. Since it transpires that being aggrieved by the impugned order, the respondent has also preferred an appeal being LPA 123/2022, which appeal is listed, on 23.07.2024, we are of the view that both appeals should be taken for consideration together. However, taking into account that despite the industrial award being in his favour and the learned Single Judge also having directed that he be paid a sum of Rs. 20 Lakhs as lumpsum compensation, the appellant has not received any amount since his dismissal on 08.06.2010, we are, of the view that the respondent should without prejudice to their rights and contentions in the two appeals, for the present pay a sum of Rs.7,50,000/- to the appellant. The appellant, who is present in Court, submits that in



case, this Court were to later direct that this amount should be refunded to the respondent, he will comply with the said directions.”

5. A perusal of the aforesaid extracts of the order dated 16.05.2024, of which modification is being sought clearly shows that this Court was conscious of all the facts urged by the respondent and had, therefore, taking into account that the appellant had succeeded before the learned Industrial Tribunal with directions being issued for his reinstatement with full back wages, which order had been set aside by the learned Single Judge, come to the conclusion that till the appellant's challenge to the order passed by the learned Single Judge was examined by this Court, the appellant should be paid some amount towards sustenance. It is only in these circumstances, that this Court had directed payment of a sum of Rs.7.50 lakhs to the appellant and that too after taking on record his undertaking that in case, he were to fail in the present appeal, the said amount would be returned to the respondent, if so directed by this Court.
6. In the light of the aforesaid, we find that the respondent's plea that this Court had overlooked the stay order passed in LPA 123/2022 is also absolutely incorrect as it is only because this Court was conscious of the order passed in the said LPA that as against the directions passed by the learned Single Judge to pay a sum of Rs. 20 lakhs, directions were issued for payment of only a sum of Rs.7.50 lakhs. We are, therefore, of the considered view that the present application is wholly misconceived and is an abuse of process of law.
7. For the aforesaid reasons, the application is, accordingly, dismissed



with costs of Rs. 25,000, which amount will be paid to the appellant within two weeks, subject to any legal remedies which the respondent may choose to avail.

REKHA PALLI, J

SAURABH BANERJEE, J

OCTOBER 22, 2024/kk