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

+ **W.P.(C) 5869/2017**

THE SENIOR DIVISIONAL MANAGER LIC OF INDIA

DIVISIONAL OFFICE AND ANR

.....Petitioners

Through: Mr. S. Rajappa, Mr. R. Gowishankar
and Ms. G. Dhivyasri, Advs.

versus

RAJEEV KUMAR AND ANR

.....Respondents

Through: Mr. Jawahar Raja, Ms. Megha De,
Ms. L. Gangmei and Mr. Siddharth
Sapra, Advs. for R-1.

CORAM:

HON'BLE MS. JUSTICE SHAIL JAIN

ORDER

03.02.2026

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CM APPL. 40868/2018 in W.P.(C) 5869/2017

“At times, within the judicial system, the process itself tends to assume the character of a punishment, which ought not to occur on account of abstinence, whether on the part of counsel or from the Bench.”

1. This is an application filed on behalf of the Respondent/workman under Section 17B of the Industrial Disputes Act, 1947 (hereinafter referred to as, 'ID Act') read with Section 226 of the Constitution of India seeking direction to the Petitioner/corporation to pay the Respondent/workman his last drawn wages or minimum wages, whichever is higher, from the date of the Impugned Award dated 28.12.2016.



2. Briefly stated, the Respondent/workman was employed by the petitioner Corporation as a 'Waterman' on daily wages from April, 2004 to January, 2005 with a last drawn salary of Rs. 1958/- per month. The Respondent was terminated/retrenched on 03.02.2005, which was alleged to be illegal and wrongful. Being aggrieved with his termination, the Respondent initiated an industrial dispute before the Conciliation Officer/Assistant Labour Commission (Central), Dehradun but the Conciliation Officer sent a 'Failure Report' and asked for adjudication in the matter to the Ld. Labour Court/Tribunal which led to the Impugned Award dated 28.12.2016 passed by the learned Presiding Officer, Central Government Industrial Tribunal (hereinafter referred to as, 'CGIT') directing the Petitioner /management to reinstate the Respondent/workman on the same post with full back wages along with continuity of service, within two months after the expiry of remedy available against the said Award. Aggrieved thereof, the Petitioner had approached this Court by way of the captioned Writ Petition.

3. The learned counsel for the Respondent/workman by way of this application supported with an affidavit to this effect submits that since his termination, the respondent has remained unemployed and has not been able to secure any gainful employment despite his best efforts and is facing significant financial hardship due to prolonged unemployment. He further submits that delay in filing the application by the respondent/workman was due to financial difficulties. He urges that directions be issued to the Petitioner/management to pay the Respondent his last drawn wages or minimum wages, whichever is higher, in accordance with Section 17B of the ID Act.



4. The learned counsel for the Respondent/workman further submits that despite passage of almost 13 years i.e., from the date of unlawful, illegal and unjustified termination of the workman from his services i.e., 03.01.2005, the Management/Petitioner herein still continues to harass the workman by not complying with the Impugned award. That the management/Petitioner herein has neither been paying the arrears of wages nor reinstating the workman in pursuance of the said Award.

5. The learned counsel for the respondent/workman has placed reliance on a judgement rendered by a coordinate bench of this court in **Raj Gariha Vishram Sadan v. Vijay Kate, 2006 SCC OnLine Del 1626**, the relevant paras reads as under:

“9. A plain reading of Section 17B of the I.D. Act indicates that the provision comes into play when an Award is challenged in the High Court or in the Supreme Court by an employer. The provision requires such employer to pay to the workman during the pendency of such proceedings, the full wages last drawn inclusive of any maintenance-allowance admissible to him. The only condition to be satisfied on the part of the workman to get such benefits is that he should not be employed in any establishment or occupation during such period and he has to file an affidavit to that effect in the Court. The only basis on which an employer can avoid the liability under Section 17B of the Act is to “prove the satisfaction of the High Court or the Supreme Court” that the workman had been employed and “had been receiving adequate remuneration during any such period or part thereof.” Therefore, once the employee states that he was not gainfully employed, the onus shifts to the employer to show that the workman was in fact gainfully employed during the pendency of the proceedings following the award of the Labour Court in his favour.”

6. Per contra, the learned counsel for the Petitioner contends that as such



there is no ground for grant of relief under Section 17B of the ID Act as claimed by the Respondent as the present application is not maintainable for the reason set out in the Writ petition as well as the written submissions filed by the Petitioner in which relying upon the judgment of the Hon'ble Supreme Court in the case of ***Ranbir Singh v SK Roy, Chairman, Life Insurance Corp. of India & Anr.*** has held that labour court has no jurisdiction to deal with the cases of workman of Life Insurance Corporation of India in as much as by virtue of sub-section (2) of Section 48 of the LIC Act and the regulations governing the terms of conditions of service of an employee and agents of LIC which were in force before Amending Act 1 of 1981 are to be the rules to be made under Clause (cc) of Sub-Section (2) and have the effect subject to other provisions of the section and therefore, the ID Act will not be applicable. In Para 67 of this judgment, it has clearly been held that after the amendments which were introduced by the Parliament in Section 48, the employees of LIC would not be entitled to the protection of the ID Act to which they were entitled before the amendment.

7. Learned Counsel for the petitioner submitted that respondent was never employed by the petitioner as a workman and that there was no employer-employee relationship between them, as the respondent only worked for four months that too as an ad-hoc temporary workman hence, he cannot take plea of an aggrieved workman, therefore the petitioner should not be directed to pay wages payable under Section 17-B.

8. It is further prayed by him that since in this case, the Industrial Tribunal lacked jurisdiction to pass any award against LIC of India then the question of payment of wages in terms of Section 17B of the ID Act cannot be entertained by this Hon'ble Court.



9. This court as of now is concerned with the following issues only:
- Whether the Respondent/workman is entitled to relief under Sec 17B of ID Act without deciding the merits of the case?***
 - If yes, since when or from which date the workman shall be entitled to wages as provided under Sec 17-B?***
10. On the first issue, it appears that the appellant has no answer to the application filed under Section 17-B of the ID Act to the extent that the workman has claimed that he is unemployed and is not otherwise gainfully employed in any establishment or occupation since the date of the termination of his services.
11. Section 17-B of the I.D. Act reads as under:
- “Section 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.”***
12. It is clear from the above provision that a workman will be entitled to



the benefit under Section 17-B of the I.D. Act only if the following requirements are satisfied:

- (a) There is an award of the Labour Court/Tribunal/National Tribunal directing reinstatement of the workman.
- (b) The employer has preferred proceedings against such an award in High Court or Supreme Court.
- (c) The workman had not been employed in any establishment during the period of pendency of such proceedings.
- (d) The workman has filed an affidavit to the effect that he had not been employed in any establishment during the period of pendency of such proceedings.

13. If all the above requirements are satisfied, the employer will be liable to pay to the workman full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule, during the period of pendency of the proceedings in the High Court or the Supreme Court. However, 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 Section 17-B of the I.D. Act for such a period or part as the case may be.

14. In the present case there is an award of the CGIT directing reinstatement of respondent/ workman. The employer has preferred the captioned writ against the said award. The said award is pending in this Court since July 2017. Respondent /workman in September, 2018 filed this application stating that he is jobless from the date of his termination and claims the benefit under Section 17-B of the I.D. Act. The petitioner herein



has filed a reply to the application under Section 17-B of the I.D. Act. Apart from a general denial of the relief under this application in light of judgment of the Hon'ble Supreme Court in the case of **Ranbir Singh (supra)**, the petitioner has not stated anything about the employment or unemployment of respondent. The petitioner has neither even alleged that respondent had been employed in any establishment during the pendency of writ petition nor made an attempt to prove that the workman had been employed during the pendency of the writ petition. In these circumstances, this court does not find any reason or circumstance to disbelieve and reject the statement in the affidavit of respondent that he has not been employed in any establishment during the pendency of the writ petition. Hence respondent is entitled to the benefit under Section 17-B of the I.D. Act and the petitioner is liable to pay such benefits to the respondent.

15. The solo argument of the Petitioner is that in light of Ranbir Singh (supra) relief under sec 17B cannot be granted by this court when the initiation of the very proceedings is *ultra vires*.

16. While considering an application under Section 17-B of the I.D. Act this Court cannot go into the merits of the case in the writ petition. The application has to be considered strictly in terms of Section 17-B of the ID Act irrespective of the merit of the writ petition. This Court can only consider whether the requirements mentioned in Section 17-B have been satisfied or not. If those requirements have been satisfied and if it has not been proved to the satisfaction of the Court that the workman has been employed and had been receiving adequate remuneration during the period of pendency of the writ petition, this Court has no option but to direct the employer to pay wages to the workman in terms of Section 17-B,



irrespective of the merit of the writ petition.

17. As pointed out by the Hon'ble Supreme Court in **Dena Bank v. Kritikumar T. Patel** (1999) 2 SCC 106, this Court cannot pass an order in exercise of the power under Articles 226 of the Constitution of India to deny to the workman the benefit granted under Section 17-B of the I.D. Act, if he is entitled to such benefit in terms of the said section. The only favour that the employer can ask for is to expedite the disposal of the writ petition.

18. Counsel for the Respondent has also relied upon the judgement of Hon'ble the Supreme Court in **Workmen Represented by Hindustan V.O. Corpn. Ltd. v. Hindustan Vegetable Oils Corporation Ltd. and Ors.,** (2000) 9 SCC 534, wherein the Hon'ble court held as under:

“3. We, therefore, set aside the order under challenge to the extent that it requires the disposal of the writ petition and the Section 17B application together and we direct that the Section 17B application should be disposed of with great promptitude and before disposal of the writ petition.”

19. In order to appreciate the submission of respondent regarding the last drawn wages, the principles governing the grant of any interim relief would come into play, the purposes for which Section 17B of the I.D. Act was introduced, may be noticed. It was stated in the Statement Of Reasons of the 1982 Amendment thus:

“When Labour Courts pass an 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 the 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.”

20. Keeping in view the interests of the workmen, Hon’ble the Supreme Court has even expanded the scope of sec 17-B by including that High courts and the Supreme Court can even pass an order directing payment of a higher amount to the workman if such higher amount is considered necessary in the interest of justice. The relevant extracts of judgment in ***Dena Bank v. Kiritikumar T. Patel, (1999) 2 SCC 106*** reads as under:

*“23. As regards the powers of the High Court and the Supreme Court under Articles 226 and 136 of the Constitution, it may be stated that Section 17-B, by conferring a right on the workman to be paid the amount of full wages last drawn by him during the pendency of the proceedings involving challenge to the award of the Labour Court, Industrial Tribunal or National Tribunal in the High Court or the Supreme Court which amount is not refundable or recoverable in the event of the award being set aside, does not in any way preclude the High Court or the Supreme Court to pass an order directing payment of a higher amount to the workman if such higher amount is considered necessary in the interest of justice. Such a direction would be de hors the provisions contained in Section 17-B and while giving the direction, the court may also give directions regarding refund or recovery of the excess amount in the event of the award being set aside. But we are unable to agree with the view of the Bombay High Court in *Elpro International Ltd. [1987 Lab IC 1468 : (1987) 2 LLJ 210 : (1987) 1 LLN 695]* that in exercise of the power under Articles 226 and 136 of the Constitution, an order can be passed denying the workman the benefit granted under Section 17-B. The conferment of such a right under Section 17-B cannot be regarded as a restriction on the powers of the High Court or the Supreme Court under Articles 226 and 136 of the Constitution.”*



21. The Full Bench of this Court while answering the reference made to it by the Division Bench in **Delhi Development Authority V. Omvati** (L.P.A No 84/2002) also adverted to this aspect when it observed in paras 13 and 14 as under:

“13. But, socio-economic aspect of wage structure has been adopted in this country with the promulgation of the Industrial Disputes Act, 1947. The Act postulates that no employer can engage industrial labour unless he pays the labour a minimum basis wage and if he cannot pay such a wage he has no right or justification for carrying on the business. The Act aims to assure to every workman engaged in an industry a fair wage and not a wage determined on the principle of supply and demand inasmuch as the legislature was aware of large scale unemployment in this country.

14. The Supreme Court in its decision in Dena Bank-I and Dena Bank-2 kept alive this basic philosophy inasmuch as the two decisions recognized the power of a Writ Court to award meaningful payment to a workman during pendency of a writ proceedings more than the last drawn wages. The reason is obvious. There may be mismatch between the cost of minimum living when the matter reaches the High Court and the last drawn wages.”

22. Payment under Section 17-B is a subsistence allowance, which is meant to mitigate and relieve, to a certain extent, the hardship which would be caused to a workman due to delay in the implementation of an award directing reinstatement of his services on account of the challenge made to it by the employer. The judicial process must not degenerate into a punitive instrument; delay or abstinence, whether attributable to counsel or to the Court, cannot be permitted to transform procedure into punishment.

23. Therefore, in the present case all the requirements under Section 17-B



of the I.D. Act has been satisfied. Hence the workman is entitled to the benefit granted under Section 17-B. The employer is liable to discharge his liability under Section 17-B. At the same time this court does not consider it necessary in the circumstances of this case or in the interest of justice to direct payment of a higher amount than what is stated in Section 17-B.

24. Addressing the second issue regarding the date from which the amount under Sec 17-B ID act would become payable, the following passage in the decision in ***Dena Bank v. Ghanshyam*, (2001) 5 SCC 169**, is a complete answer:

“6. In a case where a workman is retrenched the relationship of master and servant comes to an end so thereafter the workman is not entitled to receive any emoluments from his employer. This principle is not disturbed by the provisions of the Act. However, the Act provides, inter alia, a machinery for a workman to raise an industrial dispute in regard to the validity of his retrenchment which will be adjudicated by an Industrial Tribunal/Labour Court on reference under Section 10 of the Act. If a Tribunal/Labour Court holds the termination to be illegal, Section 11-A of the Act empowers it to set aside such order of discharge or dismissal and direct reinstatement of the workman on terms and conditions as it thinks fit and to give such relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require. When the award passed by the Labour Court is challenged in the High Court or the Supreme Court, the Court may, having regard to the facts and circumstances of the case, stay the award or pass such other interim order as it may deem fit.

12. We have mentioned above that the import of Section 17-B admits of no doubt that Parliament intended that the workman should get the last-drawn wages from the date of the award till the challenge to the award is finally decided which is in accord with the Statement of Objects and



Reasons of the Industrial Disputes (Amendment) Act, 1982 by which Section 17-B was inserted in the Act. We have also pointed out above that Section 17-B does not preclude the High Courts or this Court from granting better benefits — more just and equitable on the facts of a case than contemplated by that provision to a workman. By an interim order the High Court did not grant relief in terms of Section 17-B, nay, there is no reference to that section in the orders of the High Court, therefore, in this case the question of payment of “full wages last drawn” to the respondent does not arise. In the light of the above discussion the power of the High Court to pass the impugned order cannot but be upheld so the respondent is entitled to his salary in terms of the said order.”

25. On a perusal of the application filed by the Respondent seeking early hearing of the application under Section 17-B, it emerges that the Respondent himself has prayed for the grant of wages from the date of the Award, i.e., 28.12.2016.

26. It is also pertinent to note that the Respondent has admitted that he worked for a total period of approximately nine (9) months, out of which he was paid for the first two to three months.

27. Accordingly, the following directions are passed:

(i) The Petitioner shall pay to the Applicant/Respondent the last drawn monthly wages from the date of the award till the disposal of the present writ petition. The said amount shall be deposited within a period of three months from today, failing which the Petitioner shall be liable to pay interest at the rate of 6% per annum on the outstanding amount, including the remaining arrears.

(ii) The payment of the aforesaid amount shall be subject to the



Applicant/Respondent filing an affidavit within a period of two weeks, specifically affirming:

a. his continuous unemployment; and

b. that he had not been receiving adequate remuneration up to today.

28. The Application is disposed of in the aforesaid terms.

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1. Let the Written Submissions, along with the compilation of judgments, be filed within a period of four weeks from today, with an advance copy be served to the other party.

2. List for arguments on 28th April, 2026.

SHAIL JAIN, J

**FEBRUARY 3, 2026
HP**