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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 6480/2018
CENTRAL BOARD OF SECONDARY EDUCATION (CBSE)

..... Petitioner

Through: Mr.M.A.Niyazi with Mr.Arquam Ali,
Advs.

versus

KULDEEP

..... Respondent

Through: Mr.Anuj Aggarwal, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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21.12.2022

CM APPL. 50797/2018 -17-B

1. This is an application under Section 17 B of the Industrial Disputes Act, 1947 (ID Act) preferred by the respondent in whose favour the impugned award dated 04.07.2017 directing his reinstatement with 50% backwages has been passed by the learned labour court.
2. It has been averred by the applicant that he is, despite his best efforts, still unemployed and has no source of livelihood. Consequently, he is finding it very difficult to take care of himself and his family.
3. Though a reply has been filed by the petitioner opposing the present application, there is nothing on record to show that the respondent's averment that he continues to be unemployed is incorrect. The factum of reinstatement having been directed under the impugned award is also not disputed.

4. The grant of relief under Section 17 B of the ID Act depends only on the factum of the respondent being unemployed and there being an award in his favour directing his reinstatement. In the present case, once the respondent has categorically stated on affidavit that he is not gainfully employed and has no other source of livelihood, there is no reason for this Court to disbelieve his stand and that too when the petitioner has, without bringing on record any material, baldly denied these averments.
5. In these circumstances, this Court has no other option except to accept the respondent's stand that despite his best efforts, he continues to be unemployed and does not have any source of livelihood. The application, therefore, deserves to be allowed and is, accordingly, allowed.
6. The petitioner is directed to release the arrears of the minimum wages/last drawn wages, whichever may be higher, to the respondent, with effect from 31.05.2018, the date when the present writ petition came to be filed. The arrears in terms of this order will, within six weeks, be released in favour of the respondent. This will, however, be subject to the respondent filing an affidavit, within one week, undertaking to refund the differential amount, if any, between the amount towards the minimum wages and the last drawn wages, in case, the petitioner were to succeed in the present petition.
7. It is further directed that arrears in terms of this order will be paid on or before 31.01.2023 and future payments from February, 2023 will be made by the petitioner on or before 10th of every month. It will be open for the respondent to forward his bank account details to the

learned counsel for the petitioner to enable the petitioner to make the remittance through it's bank account itself.

8. The application, accordingly, stands disposed of.

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9. Learned counsel for the petitioner prays for and is granted six weeks time to file the rejoinder affidavit.

10. List on 17.05.2023.

DECEMBER 21, 2022
sr

REKHA PALLI, J