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

% ***Date of Decision: 20th May, 2025***

+ **CM(M) 370/2023 & CM APPL. 11199/2023**

HIRA JOSHI

.....Petitioner

Through: **Mr. Chetan Sharma and Mr. Samarth Tyagi, Advocates (through video conferencing).**

versus

ALOK MADAN

.....Respondent

Through: **Mr. Vineet Kaushik, Advocate.**

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner herein is workman, in whose favour, there is an Award dated 30.08.2010.
2. As per Award, there is a direction that the workman be reinstated in the services with continuity of services and consequential benefits and he has also been awarded back wages @ 45% based on of his last drawn wages/salary.
3. The abovesaid Award was challenged by Management by filing writ petition i.e. W.P.(C) No. 2804/2011 and such writ petition was dismissed for *non-prosecution* and, thus, the abovesaid Award has already attained finality.
4. It is also admitted case of the parties that when the abovesaid writ petition was pending before this Court, the workman had not filed any cross



objection and had never made any request praying therein that he be held entitled to back wages @ 100%.

5. However, during course of execution proceedings, the workman sought back wages @ 100% and the learned Executing Court has declined such request.

6. Such order is under challenge.

7. Evidently, the Executing Court cannot go beyond the decree and since, as per Award in question, the back wages were only to the tune of 45% of last drawn wages/salary, the learned Executing Court was in no position to award back wages @ 100%.

8. To the above extent, the contention of learned counsel for petitioner/workman herein is totally misplaced.

9. The another submission of the petitioner is to the effect that he was not, immediately, reinstated. He submits that the Award is of 30.08.2010 and he was reinstated only on 05.10.2017.

10. Fact, however, remains that uptill 05.10.2017, the workman has been paid back wages @ 45% and such fact is not in dispute.

11. Though, the reinstatement has come little late but there is nothing to indicate that any request in this regard was made by the workman before the learned Executing Court or for that matter, when the abovesaid writ petition was pending adjudication. He, nowhere, complained that he was not reinstated by the Management, despite there being a categoric direction in this



regard.

12. So much so, even the Execution Petition seems to have been filed by the workman much later i.e. in the year 2014.

13. The impugned order also records that, admittedly, after the decree holder was reinstated on 05.10.2017, he even resigned from the services on 14.10.2022.

14. Be that as it may, there is nothing to show that on his reinstatement, he was not granted all the consequential benefits.

15. In view of the above, this Court does not find any reason to interfere with the impugned order 03.02.2023.

16. Petition is, accordingly, dismissed.

17. Pending application also stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

MAY 20, 2025/sw/JS