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

*Date of decision: 02.05.2025*

+ W.P.(C) 5756/2025

GOVERNMENT OF NCT OF DELHI AND ORS.

.....Petitioners

Through: Mr.Gaurav Dhingra, Adv

versus

SUNIL KUMAR AND ORS.

.....Respondents

Through: Mr.M.K. Bhardwaj, Adv

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE RENU BHATNAGAR**

**NAVIN CHAWLA, J. (ORAL)**

**CM APPL. 26283/2025 (Exemption)**

1. Allowed, subject to all just exceptions.

**W.P.(C) 5756/2025 & CM APPL. 26282/2025**

2. This petition has been filed by the petitioners, challenging the Order dated 05.08.2024, passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (in short, 'Tribunal') in O.A. No. 1454/20217, titled *Sunil Kumar, Contractual Craft Instructor (B) & Ors. v. Govt. of NCT of Delhi & Ors.*, allowing the said O.A. filed by the respondents herein with a direction to the petitioners to release the payment of the respondents for the period between the termination of their services by the petitioners till their reinstatement, within a period of three months from the date of receipt of the certified



copy of the said order.

3. To give a brief background of the facts of the present case, the respondents were working on contract basis with the petitioners as Contractual Craft Instructors. As their services were terminated by the petitioners *vide* orders dated 31.07.2014 and being aggrieved by the same, the respondents filed an application before the learned Tribunal challenging the order of termination. The learned Tribunal, by its *interim* order dated 08.08.2014, stayed the operation of termination notices. The petitioners challenged the same by way of a Writ Petition, being WP(C) 7636/2014, titled ***Govt. of NCT of Delhi & Ors. v. Rakesh Kumar & Ors.***, wherein this Court, by an *ad interim* order dated 10.11.2014, in turn, suspended the order dated 08.08.2014 of the learned Tribunal. The Writ Petition was eventually disposed of by this Court *vide* its Judgment dated 25.03.2015.

4. The learned Tribunal, thereafter, by an order dated 25.02.2016, allowed the O.As filed by the respondents herein, by setting aside the termination notices dated 31.07.2014; directing the petitioners to re-engage the respondents in their services; and frame a policy for their regularization.

5. The petitioners initiated the process of re-engagement of the respondents, and eventually issued orders dated 04.10.2016 for the said purpose.

6. The respondents then filed representations seeking the period of their absence from duty to be treated as one spent on duty, along with all consequential benefits.

7. Finally, to elicit a positive response from the petitioners, the



respondents again approach the learned Tribunal by way of the present O.As, which has been allowed by the learned Tribunal by its Impugned Judgment.

8. The learned counsel for the petitioner submits that in spite of the Order dated 08.08.2024 of the learned Tribunal, coming back into operation with the disposal of the Writ Petition of this Court on 25.03.2015, the respondents did not report back for duty till October 2016. He submits that the respondents are, therefore, not entitled to claim any benefits for the said period when they did not work. He places reliance on the judgment of the Supreme Court in *Sushil Kumar Tripathi v. Jagadguru Ram Bhadracharya Handicapped University & Anr.*, (2022) 8 SCC 760, in support of his submission.

9. We are unable to accept the submission made by the learned counsels for the petitioners.

10. In the present case, the respondents immediately on the issuance of the termination notices dated 31.07.2014 had approach the learned Tribunal, and the learned Tribunal by an order dated 08.08.2014, stayed the operation of the termination notices. Instead of re-instating the respondents into services, the petitioner chose to challenge the said order by way of a Writ Petition before this Court, wherein, the operation of the order dated 08.08.2014 was suspended by this Court *vide* its order dated 10.11.2014. The Writ Petition was eventually disposed of by this Court *vide* its judgment dated 25.03.2015. It is not the case of the petitioners that the petitioners thereafter issued orders of re-instatement or allowed the respondents to join back into services. The O.As filed by the respondents was finally allowed by an order



dated 25.02.2016, directing the petitioners to re-engage the respondents. It is only by an order of 04.10.2016 that the petitioners finally issued re-engagement notices to the respondents. The respondents, therefore, were kept away from the work by the acts of the petitioners itself. If an employee is prevented by the employer from performing his duties, the employee cannot be blamed for having not worked, and the principle of “no pay no work” shall not be applicable to such employee. Reliance in this regard is placed on *State of U.P. v. Dayanand Chakrawarty & Ors.*, (2013) 7 SCC 595, whereby, the Supreme Court held as under:

*“48. In view of the orders passed by this Court in Harwindra Kumar v. Chief Engineer, Karmik, (2005) 13 SCC 300 : 2006 SCC (L&S) 1063, Radhey Shyam Gautam [(2007) 11 SCC 507 : (2008) 1 SCC (L&S) 59] and Jaswant Singh [U.P. Jal Nigam v. Jaswant Singh, (2006) 11 SCC 464 : (2007) 1 SCC (L&S) 500], it was not open to the High Court to rely on some other decision of this Court, ratio of which is not applicable in the present case for determining back wages of the respondents restricting it to be 20% of the basic salary. We observe that the principle of “no pay no work” is not applicable to the employees who were guided by specific rules like Leave Rules, etc. relating to absence from duty. Such principle can be applied to only those employees who were not guided by any specific rule relating to absence from duty. If an employee is prevented by the employer from performing his duties, the employee cannot be blamed for having not worked, and the principle of “no pay no work” shall not be applicable to such employee.”*



2025:DHC:3398-DB



11. In the present case, the petitioners have failed to show that the absence from duty of the respondents was in any way attributable to the respondents themselves, therefore, the Judgment in *Dr.Sushil Kumar Tripathi* (supra), would not come to assistance of the petitioners. We may herein also note that the learned Tribunal in the Impugned Judgment has also placed reliance on the judgment of the Supreme Court in *Bhuvnesh Kumar Dwivedi v. M/s Hindalco Industries Ltd.*, (2014) 11 SCC 85 for granting relief to the respondents.

12. Accordingly, we find no merit in the present petition.

13. The same, along with the pending application, is disposed of.

**NAVIN CHAWLA, J**

**RENU BHATNAGAR, J**

**MAY 2, 2025/rv/Vs**

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