Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.6409 of 2017

KAILASH SINGH ….APPELLANT

Versus

THE MANAGING COMMITTEE,
MAYO COLLEGE, AJMER & ORS. ….RESPONDENTS

With

Civil Appeal No.6410/2017

J U D G M E N T

SANJAY KISHAN KAUL, J.

1. The Mayo College, Ajmer is an educational institution founded in 1875 by Sir Richard Southwell Bourke, the 6th Earl of Mayo, who was also the Viceroy of India from 1868 to 1872. It is one of the oldest educational institutions which was set up as a public boarding school, offering admission to the then elite. This character of the institution changed in the post-independence era, but it continued to be a prestigious centre of learning. The Mayo College is an unaided, non-governmental educational institution receiving no grant either from the State or the Central Government and is affiliated to the Central Board of Secondary Education, New Delhi, for purposes of students taking that examination to pass the 12th standard.

2. The present unfortunate dispute involves the Managing Committee of the School (respondent No.1), with the Principal arrayed as the 2nd respondent. The dispute in the two Civil Appeals before us concerns two employees of this institution, who have served for a number of years, but apparently irreconcilable differences had arisen on account of the alleged conduct of the employees. The two employees are Kailash Singh (Civil Appeal No.6409/2017) and Jeffry Jobard (Civil Appeal No.6410/2017).

3. Kailash Singh began his employment as a Class IV employee on 4.1.1984 and was promoted after a decade's service as an LDC from 1.2.1994 and posted in the Library. Jeffry Jobard began his career as an LDC itself, from 1.7.1985. The services of both Kailash Singh and Jeffry Jobard were terminated simultaneously on 9.11.2000, on account of conducts attributed to them, which created an extremely undesirable situation in the respondent school.

4. It may be appropriate to refer to the ground reality which resulted in the termination of the appellants, though it is not of great importance now in view of subsequent developments. Both the appellants, in different capacities, were associated with the activities of Mayo College Employees Union and are stated to have been instrumental in setting up the '*Sangarsh Samiti* Mayo College, Ajmer', under the banner of which they demanded bonus. The stand of Respondent No. 1 was that such bonus was payable only as per the orders of the Government and the Board of Governors was willing to consider the same, subject to such orders being passed. The *Sangarsh Samiti* organised protest meetings at the gate of the Mayo

College on 19.10.2000 and resolved to hold a general meeting and *dharna* on 22.10.2000, on the issue of non-grant of bonus. Additionally, a threat was held out to go on a general strike from 23.10.2000, if their demands were not met. The *Samiti*, steered by the appellants, started with their movement on 20.10.2000, and on 22.10.2000, a general notice was issued to all employees, reiterating the stand of the establishment that the Board of Governors was awaiting the decision of the Government. The employees were warned that any such "movement" was totally illegal because no employees' union had given any legal notice in that behalf, and a warning to not tolerate absenteeism on 23.10.2000 and 24.10.2000 was held out. Since the Board was awaiting the announcement by the Government, it was informed to the workers that the management would take a call on the issue on 23.10.2000, and that the workers should not indulge in any disruptive activity.

5. The appellants, despite the same, are stated to have gone ahead with their threat, and at the time when the Annual Function of the Mayo College was being held on 23/24.10.2000, instigated other staff members not to go to work and created disturbances, causing grave embarrassment to the Institution. It appears that loudspeakers were used and inappropriate adjectives were used for the management, so much so that the traditional dinner scheduled for 24.10.2000 had to be cancelled, resulting in a loss of face for the management.

6. It is the aforesaid incidents which led to the show cause notice being issued to both the appellants on 3.11.2000 to which they replied on 6.11.2000. The appellants defended their actions by claiming that they had a right to organise

dharnas and protests, as a constitutional right, and that strike and sloganeering should not be stopped. The adjectives used of *Murdabad*, etc. are adjectives of common parlance in such agitations and cannot be said to be derogatory, and that a proper inquiry should be held *qua* their conduct. The non-payment of bonus was claimed to be an "administrative fanaticism".

7. A unanimous resolution was passed by the Board of Governors on 7/8.11.2000 to terminate the services of the appellants, and they were so dismissed on 9.11.2000 by issuance of letters of the even date. It may be noted that in a subsequent communication, Jeffry Jobard, vide letter dated 14.11.2000 sought to slightly back-track from the issue by claiming that he was not part of the Samiti, and that at the relevant time was, in fact, a mere spectator of the meetings.

8. The termination of the services of the appellants resulted in their approaching the Educational Tribunal, set up under the Rajasthan Non-Government Educational Institutions Act, 1989 (hereinafter referred to as the 'said Act'). The crucial aspect on which the Management erred was the non-compliance of Section 18, which reads as under:

> "**18. Removal, dismissal or reduction in rank of employees.-** Subject to any rules that may be made in this behalf, no employee of a recognised institution shall removed, dismissed or reduced in rank unless he has been given by the management a reasonable opportunity of being heard against the action proposed to be taken:
>
> Provided that no final order in this regard shall be passed unless prior approval of the Director of Education or an officer authorised by him in this behalf has been obtained:
>
> Provided further that this section shall not apply, -
>
> (i) to a person who is dismissed or removed on the ground of conduct

which led to his conviction on a criminal charge, or

(ii) where it is not practicable or expedient to give that employee an opportunity of showing cause, the consent of Director of Education has been obtained in writing before the action is taken, or

(iii) Where the managing committee is of unanimous opinion that the services of an employee cannot be continued without prejudice to the interest of the institution, the services of such employee are terminated after giving him six months' notice or salary in lieu thereof and the consent of the Director of Education is obtained in writing."

9. When we say that the Management erred, it is so, as, in any eventuality, the consent of the Director of Education had to be obtained in writing, which was not so obtained, which proved fatal to the Management. We may add that insofar as the first proviso to Section 18 of the said Act is concerned, a Full Bench of the Rajasthan High Court, in ***Central Academy Society v. Rajasthan Non-Government Educational Institutions Tribunal, Jaipur & Ors.***[1] opined that for an unaided institution the said proviso would not apply in view of the law enunciated in the case of ***T.M.A. Pai Foundation & Ors. v. State of Karnataka & Ors.***[2]. However, even in case of institutions like Mayo College (unaided institution), the second proviso clause (iii) stared the management in the face; that while in case of a unanimous opinion of the Managing Committee (Board of Governors in the present case), the services of employees could be terminated when such services were prejudicial to the interest of the institution, they were required to be given six (6) months' notice or salary in lieu thereof and the consent of the Director of

[1] 2010 (3) ILR (Raj) 450.
[2] (2002) 8 SCC 481.

Education had to be obtained in writing. The appellants were paid three (3) months' salary initially and subsequently the rest of the amount was deposited in their bank accounts, but the consent of the Director of Education was not obtained.

10. The aforesaid position led to an adverse order by the Tribunal on 10.1.2002. The Management approached the High Court and the learned Single Judge, vide judgment dated 16.7.2002, referring to Section 18 of the said Act held that the same was not complied with and even otherwise the relationship between the parties could not be said to have been strained beyond the point of no return. Thus, the direction of the Tribunal for reinstatement was upheld.

11. The aforesaid took the battle to the Division Bench, with the Management preferring an appeal, where it was opined that this was a case where the Management had lost confidence in the appellants, that there had been a unanimous decision of the Board, but the consent of the Director of Education had not been obtained and, thus, there was only a technical defect. In terms of this judgment dated 3.10.2013, the relief was modified to compensation equalling five (5) years' salary on the basis of last pay and allowances drawn by them on the date of termination of their services, together with provident fund and all retiral benefits by construing them to be otherwise in service till they attained the age of superannuation. It may also be noted here that by that date Jeffry Jobard had superannuated on 30.9.2013. These two persons have apparently continued to occupy the premises, and have used the civic facilities without paying charges. Thus, the Division Bench also opined that they must vacate the premises within a

period of one (1) month of such payment being made.

12. The Management of Mayo College reconciled itself to this verdict and did not prefer any appeal. However, the appellants were aggrieved by the quantification of compensation, in both the cases, while in case of Kailash Singh, even in respect of non-restoration of his employment.

13. We have heard learned senior counsel/counsel appearing for the parties.

14. On behalf of the appellants, an impassioned plea was made that they have been unjustly deprived of their employment and must be re-employed and fully compensated for the same. By claiming full compensation, it was pleaded that whatever be the total benefits payable right till the age of superannuation must be paid, in the case of Jeffry Jobard, while in the case of Kailash Singh, he should be paid till date and should be re-employed, as his services would continue till 2026. The monetary compensation to the fullest extent was claimed on the basis of judicial pronouncements that full back-wages should be the rule. On the other hand, learned senior counsel for the Management pleaded that in a prestigious educational institution, the environment cannot be permitted to be vitiated in this fashion by the appellants, who behaved irresponsibly causing grave damage to the reputation of the institution. It was pleaded that the principles applicable to a factory or an industrial establishment cannot be made applicable to an educational institution, insofar as the extent of discipline is concerned, and the mode and manner of protests cannot be identically based. The effect of the conduct of the appellants would have a direct impact on the young students, who are studying in

the institution, and the embarrassment was aggravated by the presence of the parents on the special day. It was further pleaded that a technical non-compliance with the provision of the said Act cannot be extended to this extent, and that it is because of such technical non-compliance that the Management had, in principle, agreed to accept the verdict of the Division Bench, by not agitating the matter further. He also submitted that the compensation awarded by the Division Bench was adequate, and that in any case, an amount of Rs.5 lakhs each, towards the award amount had already been paid in pursuance to interim orders passed by this Court on 1.5.2017.

15. Both sides cited certain judicial precedents in support of their case, which we shall proceed to discuss hereafter.

16. On having delved into the submissions of both sides, as well as perusing the judgments which are before us, we cannot lose sight of the fact that we are dealing with an educational institution of great eminence. Persons employed in educational institutions right from Class IV staff to the highest level have a far greater responsibility on account of the nature of activity which takes place in these institutions – Education. There are students of all ages, starting from younger ones to older teenagers, who are studying and living in these campuses. It is a different kind of *'Gurukul'*. Thus, anything which is done, as would cause an adverse impact on the mind of these young people, is something which we find difficult to approve, even if it is claimed as a right to make certain demands. The mode and methodology of making demands in these educational institutions cannot be at par

with an industrial establishment, where workmen agitate for their rights. This is also in the background of the Management apparently claiming that they were not averse to the principal demand of bonus, but that they were waiting for the necessary Government decision, in that behalf.

17. On the threats being held out by the so-called *Sangarsh Samiti*, the Management had warned and cautioned the employees against creating a scene, especially when there were important functions on the anvil, where the parents of the wards would be participating. We may add that an annual day is always an important day in an educational institution, with active participation of parents. It is of great significance even to the passing out batch of students, and the sensitivity of the parents and children should have been kept in mind while asserting such rights, by the employees. This appears not to have been done.

18. We may hasten to add that, of course, in the given situation no inquiry appears to have been done, but the response of the appellants to the show cause notice issued by the Board of Governors, itself shows as to what transpired and reveals the stand of the appellants. All this led to a complete lack of confidence in the employees, by the Board of Governors. The decision by the Board of Governors, which is really the Managing Committee as defined under Section 18 of the said Act, was a unanimous one as provided in sub-clause (iii) of the second proviso to Section 18 of the said Act, and even the required salary was paid, albeit in two instalments. However, the Management did commit a legal default in not obtaining the consent of the Director of Education in writing, which has caused

this long drawn legal battle. At the cost of repetition, we may re-emphasise that the Mayo College is a recognised institution but is not financially aided in any manner by the Central or the State Government, and the first proviso to Section 18 of the said Act has already been read down, and in our opinion, rightly so, in view of the 11 Judges Bench decision in ***T.M.A. Pai Foundation & Ors. v. State of Karnataka & Ors.,***[3] dealing exclusively with educational institutions, and a portion thereof, separately dealing with unaided educational institutions, as pointed out by learned senior counsel for the Management, Mr. K.N. Bhatt, under the heading of "Private Unaided Non-Minority Educational Institutions". We have no hesitation in concluding that there can be no question of reinstatement in such a case, but the only remedy is by determining the compensation to be paid to the appellants, in view of the Management not having complied with the legal requirement of obtaining the consent of the Director of Education in writing.

19. We seek to buttress our conclusion with the following judicial pronouncements. In a seminal judgment in ***T.M.A. Pai Foundation & Ors. v. State of Karnataka & Ors.,***[4] an essential distinction is sought to be made in the case of private unaided educational institutions, opining that its essence is in the autonomy that the institution must enjoy in its management and administration. Thus, while in a government-aided institution, the Government may have a greater say in the administration, while in the case of unaided institutions, maximum autonomy in day-to-day administration is to be with the private unaided institution.

[3] Supra.
[4] Supra.

This was held to be equally applicable to the teaching faculty and the members of staff, for maintaining excellence in education. In para 63 of the said judgment, the Bench took note of the grievance that wherever cases of misconduct are committed by teachers and members of the staff, for which disciplinary action is taken, the rules framed by the Government are against the Management, which *inter alia* require prior permission from a governmental authority, before initiation of disciplinary proceedings. The most relevant observation in para 64 is "In the case of a private institution, the relationship between the management and the employees is contractual in nature." We may, however, add that thereafter the importance of a domestic inquiry, in accordance with the principles of natural justice, has also been emphasised. But then, in the present case, the show cause notice and the response to it, themselves seem to lend credence to the allegation of inappropriate behaviour of the appellants. The subsequent endeavour of Jeffry Jobard, through a communication to back-out, cannot really aid him to a large extent.

20. We may also note that were the appellants to file a civil suit, the evidence would have been recorded, and the matter gone into a greater detail in a factual context. This is relevant from both aspects of seeking restoration of services and quantification of damages. The significant aspect is that there should not be specific performance of a master-servant contract of service, and damages should be the appropriate remedy. We may refer to ***Vidya Ram Misra v. Managing Committee, Shri Jai Narain College,***[5] where in para 4, it was observed as under:

[5] (1972) 1 SCC 623.

> "4. It is well settled that, when there is a purported termination of a contract of service, a declaration that the contract of service still subsisted would not be made in the absence of special circumstances, because of the principle that courts do not ordinarily enforce specific performance of contracts of service (see Executive Committee of U.P. State Warehousing Corporation Ltd. v. Chandra Kiran Tyagi [AIR 1970 SC 1244 : (1970) 2 SCR 250 : (1970) 1 SCJ 790] and Indian Airlines Corporation v. Sukhdeo Rai [AIR 1971 SC 1828]). If the master rightfully ends the contract, there can be no complaint. If the master wrongfully ends the contract, then the servant can pursue a claim for damages. So even if the master wrongfully dismisses the servant in breach of the contract, the employment is effectively terminated. In Ridge v. Baldwin [(1965) 2 WLR 935 (HL)] Lord Reid said in his speech:
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> > "The law regarding master and servant is not in doubt. There cannot be specific performance of a contract of service, and the master can terminate the contract with his servant at any time and for any reason or for none. But if he does so in a manner not warranted by the contract he must pay damages for breach of contract. So the question in a pure case of master and servant does not at all depend on whether the master has heard the servant in his own defence; it depends on whether the facts emerging at the trial prove breach of contract. But this kind of case can resemble dismissal from an office where the body employing the man is under some statutory or other restriction as to the kind of contract which it can make with its servants, or the grounds on which it can dismiss them."

21. The aforesaid view is also adopted by the Constitution Bench in ***Sirsi Municipality v. Cecelia Kom Francis Tellis***[6]. We may usefully extract the observations in the following paragraphs:

> "15. The cases of dismissal of a servant fall under three broad heads. The first head relates to relationship of master and servant governed purely by contract of employment. Any breach of contract in such a case is enforced by a suit for wrongful dismissal and damages. Just as a contract of employment is not capable of specific performance similarly breach of contract of employment is not capable of finding a declaratory judgment of subsistence of employment. A declaration of unlawful termination and restoration to service in such a case of contract of employment would be indirectly an instance of specific

[6] (1973) 1 SCC 409.

performance of contract for personal services. Such a declaration is not permissible under the Law of Specific Relief Act.

16. The second type of cases of master and servant arises under Industrial Law. Under that branch of law a servant who is wrongfully dismissed may be reinstated. This is a special provision under Industrial Law. This relief is a departure from the reliefs available under the Indian Contract Act and the Specific Relief Act which do not provide for reinstatement of a servant.

17. The third category of cases of master and servant arises in regard to the servant in the employment of the State or of other public or local authorities or bodies created under statute.

18. Termination or dismissal of what is described as a pure contract of master and servant is not declared to be a nullity however wrongful or illegal it may be. The reason is that dismissal in breach of contract is remedied by damages. It (*sic.*)[7] the case of servant of the State or of local authorities or statutory bodies, courts have declared in appropriate cases the dismissal to be invalid if the dismissal is contrary to rules of natural justice or if the dismissal is in violation of the provisions of the statute. Apart from the intervention of statute there would not be a declaration of nullity in the case of termination or dismissal of a servant of the State or of other local authorities or statutory bodies.

19. The courts keep the State and the public authorities within the limits of their statutory powers. Where a State or a public authority dismisses an employee in violation of the mandatory procedural requirements or on grounds which are not sanctioned or supported by statute the courts may exercise jurisdiction to declare the act of dismissal to be a nullity. Such implication of public employment is thus distinguished from private employment in pure cases of master and servant."

22. The facts of the present case are covered by the master-servant relationship, i.e., the first category. There is no adjudication by invocation of a reference to the Industrial Disputes Act, 1947. Thus, the remedy would only be in damages.

23. Now, turning to the aspect of quantification of damages, which is the real

[7] To be read as 'In'.

bone of contention. What we have to examine is whether the approach adopted by the Division Bench and its conclusion, would give rise to a finding that justifiable compensation has been arrived at, or otherwise.

24. Mr. Colin Gonsalves, learned senior counsel appearing for Jeffry Jobard and Mr. Prashant Bhushan, counsel for Kailash Singh, have both sought to canvass that the only adequate compensation can be full back-wages, till the date of retirement. In this behalf, they referred to the following judicial pronouncements:

(i) ***O.P. Bhandari v. Indian Tourism Development Corporation Ltd.***[8] The factual matrix is dealing with the employer-employee relationship in a public sector undertaking to which Article 12 of the Constitution of India is attracted. It was observed that reinstatement may not invariably follow as a consequence of holding that an order of termination of service of an employee is void. In that context, it was observed that reinstatement should be the rule for the 'blue collar' workmen and 'white collar' employees, other than those belonging to the managerial or to a similar high level cadre, and compensation in lieu thereof, is an exception. However, this judgement also notes that the relationship between the parties, having been strained beyond a point of no return, granting the salary and allowances which would accrue to the employee till the future date of superannuation was held to be too high a compensation. The object, it was observed, would not be for the Court to confer a bonanza on the employee, but to compensate him by adopting the appropriate formula.

(ii) ***Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya***

[8] (1986) 4 SCC 337.

(D.ED.) & Ors.[9]: Full back-wages along with reinstatement and continuity of service were held applicable in cases where the employee or workman was not at all guilty of any misconduct, especially where it had been clearly averred that the employee was not gainfully employed. The matter pertains to a teacher with regards to her contractual appointment where principles of Industrial Disputes Act were imported in the award of damages.

The attention of the Court was also drawn to para 38.7, where it recorded the observations made in ***J.K. Synthetics Ltd. V. K.P. Agrawal & Anr.***[10] that on reinstatement the employee/workman cannot claim continuity of service, as a right, is contrary to the ratio of the judgments of three Judge Benches in ***Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited***[11] and ***Surendra Kumar Verma v. Central Government Industrial Tribunal-cum-Labour Court, New Delhi***[12], and thus, cannot be treated as good law.

The judgment emphasises on the restoration of an employee to the position held before dismissal, removal or termination from services, once the employer's action has been found to be illegal. Since the employee is deprived of sustenance for himself and his family, it has been observed that the employee should get full back-wages unless it can be proved that the employee was gainfully employed during that period. In order to support this proposition, various judicial pronouncements have been referred to, but which

[9] (2013) 10 SCC 324.
[10] (2007) 2 SCC 433.
[11] (1979) 2 SCC 80.
[12] (1980) 4 SCC 443.

are in the context of adjudication under the Industrial Disputes Act, 1947. The proposition laid out, thus, is that where there is a wrongful termination of service, reinstatement with continuity of service and back-wages is the normal rule. A litigant ought not to be penalised, it was so observed, for the delays of the system. However, mitigating and aggravating aspects, such as length of service and nature of misconduct can be taken into account while determining so.

25. We may now turn to the cases relied upon by the learned senior counsel for the respondents:

i. ***S.S. Shetty v. Bharat Nidhi Ltd.***[13]: The position obtaining in the ordinary law of master-servant was clarified as one of established practice that where a master wrongfully dismisses his servant, he is bound to pay him such damages as would compensate him for the wrong that he has sustained. In case the employment is for a specific term, the servant would, in that event be entitled to damages, the amount of which would be measured *prima facie* and subject to the rule of mitigation in the salary of which the master had deprived him.

ii. ***Sirsi Municipality v. Cecelia Kom Francis Tellis:***[14] The judgment has already been discussed as aforesaid in respect of dismissal in contractual matters.

iii. ***Raju Chand v. Zonal Director Nehru Yuva Kendra Sangathan,***

[13] 1958 SCR 442.
[14] Supra.

Chandigarh & Ors.:[15] One of us (Kurian, J.) has been a party to this judgment, where in case of a driver on daily wages (or temporary basis), the management lost confidence in him, and monetary compensation was held to be appropriate remedy.

26. In the conspectus of the aforesaid discussion, we now turn to the crucial issue of adequacy of compensation to be awarded to the appellants.

27. We have already noticed that by the very nature of the respondent-Institution, which is completely unaided, and keeping in mind the principle enunciated in ***T.M.A. Pai Foundation v. State of Karnataka,***[16] the only conclusion is that the relationship between the parties is one of contract. The present case is one where the conduct of the appellants cannot be said to be such that would not result in loss of confidence. The factual matrix in the context of the show cause notice and the replies to it itself clarified the position. However, the issue remains that the respondent-Institution failed in the legal compliance of the second proviso to Section 18 of the said Act and must bear the consequences of the same.

28. It is also true that the direction of attack, on behalf of the appellants, in the proceedings in the courts below was *qua* restoration of their services. No clarity has emerged on the issue, in the absence of any evidence led, on the employment, if any, of these appellants. But no affidavit has also really been filed stating that they were not gainfully employed. We may note that both the appellants have been residing in the accommodation provided by the respondent-Institution, practically

[15] (2016) 14 SCC 534.
[16] Supra.

free of charge.

29. We cannot lose sight of the fact that the present case is not one under the Industrial Disputes Act, 1947. This in turn would have required factual matrix to be established in different aspects, which is not what has happened. Thus, the principles of the Industrial Disputes Act, 1947 cannot be, *ipso facto*, imported into a factual matrix of the present nature, for, as a consequence of the illegality in the termination of the services of the appellants, compensation has to be granted. The methodology of calculation would be based on the principle of wrongful termination of an employee, under the master-servant relationship. This, in turn, would import into it the requirement of the appellants endeavouring to mitigate their losses. In fact, in this context, we may observe that the claim for back-wages has apparently been raised for the first time only in the present proceedings, arising from the manner in which the High Court dealt with the matter, where it granted some compensation.

30. The principle of awarding adequate compensation in the form of back-wages, keeping in mind aggravating and mitigating circumstances would, thus, have to be observed. The amount cannot be measly, nor can it be a bonanza. The High Court, in its wisdom, awarded the compensation of five (5) years' back-wages on the last pay drawn. Not only that, an additional benefit was conferred by providing for provident fund and retiral dues, to be calculated on the premise as if the services would be continued till the appellants attained the age of superannuation.

31. We have no reason to find that such an aforesaid principle can be said to be fallacious or wrong, so as to call for our interference, except to the extent discussed hereafter.

32. We are firstly of the view that it would not be appropriate to determine the amount on the basis of the last pay and allowances drawn. The calculation should be based on the actual pay and allowances liable to be drawn for the years in question, dependent on the period for which this amount is to be calculated.

33. In order to better understand, and come to an appropriate figure, we had asked both the parties to give their calculations. The Management has given its calculations based on the impugned judgment, which includes the salary calculations for five (5) years on the last pay and allowances drawn, while gratuity and provident fund benefits are taken till the date of retirement. There are deductions made on account of electricity dues, house rent and certain other smaller accounts. On the other hand, the appellants have given their broad calculations, taking the monthly emoluments payable in different years, right up to date, and even beyond that if the employment was to continue, as in the case of Kailash Singh.

34. We are not going into the exactitude of the calculations, but, broadly speaking, the final amount payable to Jeffry Jobard, as per the impugned order, would be approximately Rs.7.75 lakhs. If the emoluments, as opined by us as aforesaid, are taken into account, for five (5) years, it would be approximately

Rs.9.75 lakhs. In the case of Kailash Singh, the amount as per the calculations of the Management would be approximately Rs.21 lakhs, while calculated as aforesaid would be approximately in the same range.

35. On having carefully examined the aforesaid issue and the calculations before us, we are inclined to enhance it a little more, and grant damages in the form of salary and allowances payable for a period of eight (8) years, of the actual amounts, in both the cases, after adding the respective provident fund amounts and other retiral dues while simultaneously deducting electricity, water and occupation charges, etc., as calculated by the management, as per the impugned order of the Division Bench. To put a quietus to this long-drawn dispute, we have quantified and fixed the amounts. The net impact is an all-inclusive compensation of Rs. 25 lakhs, in the case of Kailash Singh and Rs. 18 lakhs in the case of Jeffry Jobard. Needless to say, the amount of Rs.5 lakhs, already paid to the appellants, in pursuance to the directions of this Court, is liable to be adjusted from the said amounts payable.

36. We are not inclined to grant future salary and allowances to Kailash Singh, merely because he has not been granted reinstatement, with further years of his service still remaining. In fact, in ***O.P. Bhandari v. Indian Tourism Development Corporation Ltd.,***[17] this plea of paying future salary and allowances, in cases of such non-reinstatement of an employee, was rejected as it would amount to conferring a bonanza on an employee, and would not lead to compensation per an acceptable formula.

[17] Supra.

37. We are, thus, inclined to modify the impugned order to the aforesaid extent, and direct the respondent-Institution to pay the aforementioned amounts within a maximum period of two (2) months from today, after adjusting the amount already paid.

38. The appellants are required to vacate the premises within a maximum period of one (1) month of the amount being so paid.

39. The appeals are accordingly allowed, leaving the parties to bear their own costs.

.....J.
[Kurian Joseph]

.....J.
[Sanjay Kishan Kaul]

New Delhi.
August 31, 2018.