IN THE HIGH COURTOF DELHI AT NEW DELHI

% ***Judgment Reserved on: 15.09.2026***
Judgment Pronounced on: 27.10.2026
Judgment Uploaded on: 27.10.2026

CNR No. DLHC010233112003

\+ **W.P.(C) 3387/2003**

DELHI TRANSPORT CORPORATION ..... Petitioner

versus

SURESH CHAND ..... Respondent

Advocates who appeared in this case:

For the Petitioner : Ms. Manisha Tyagi, Adv

For the Respondent : Mr. Jawahar Raja, Ms. Meghna De, Mr. Siddharth Sapra & Ms. Nitai Hinduja, Advs

CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The respondent workman was appointed as a Conductor by the petitioner on 06.08.1985 and his services were regularised on 06.12.1985. The workman remained absent from duty from

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10.10.1989. Pursuant to the same, the petitioner issued a notice dated 05.12.1989 calling upon the respondent to report for duty within 72 hours of receipt of the notice and informing him that, in case of sickness, he could appear before the Medical Officer for medical examination. The respondent neither resumed duty nor appeared before the Medical Officer. The petitioner thereafter issued a reminder dated 16.01.1990, affording him a further opportunity to resume duty.

2. As the respondent did not resume duty, the petitioner issued a show cause notice dated 22.01.1990 under Clause 14(10)(c) of the DRTA (Conditions of Appointment and Service) Regulations, 1952, calling upon him to show cause as to why he should not be deemed to have resigned from service.

3. The petitioner thereafter passed the order dated 05.02.1990 declaring the respondent as deemed to have resigned from service under Clause 14(10)(c) of the DRTA Regulations, 1952.

4. Aggrieved thereby, the respondent workman issued a demand notice dated 27.10.1992 to the petitioner. Conciliation proceedings were thereafter initiated before the Conciliation Officer, which failed. Consequently, *vide* order dated 13.04.1994, the appropriate Government made the following reference to the learned Labour Court for adjudication:

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"Whether the action of the management in declaring Sh. Suresh Chand as deemed to have resigned from the service is illegal and for unjustified and if so, to what relief is he entitled and what direction are necessary in this respect".

5. *Vide* award dated 30.05.2001, the learned Labour Court held that the action of the management in declaring the respondent as deemed to have resigned from service was illegal and unjustified. The learned Labour Court, *inter alia*, observed that the management had not properly considered the leave applications submitted by the respondent and had not afforded him an opportunity to defend himself in accordance with the principles of natural justice. The respondent was consequently directed to be reinstated with full back wages.

6. Aggrieved thereby, the present petition has been filed.

7. The learned counsel for the petitioner submitted that the learned Labour Court erred in holding that the principles of natural justice were not complied with. She submitted that the respondent was afforded repeated opportunities to resume duty, including *vide* notice dated 05.12.1989 and reminder dated 16.01.1990, and was also permitted to appear before the Medical Officer in case of illness. She submitted that despite the same, the respondent neither resumed duty nor responded to the subsequent show cause notice dated 22.01.1990.

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8. She submitted that the learned Labour Court erroneously proceeded on the premise that a domestic enquiry was mandatory before action could be taken under Clause 14(10)(c) of the DRTA Regulations, 1952. She submitted that a domestic enquiry is an extension of the principles of natural justice and would arise only where the workman comes forward with an explanation requiring an enquiry into its truthfulness. She submitted that, in the present case, despite repeated opportunities, the respondent neither resumed duty nor furnished any explanation to the show cause notice.

9. She submitted that the respondent was declared to have deemed to have resigned strictly in terms of Clause 14(10)(c) of the DRTA Regulations, 1952. She submitted that the said provision itself contemplated the procedure to be followed in cases of prolonged absence. She submitted that once the procedure prescribed under the applicable Regulation/Standing Order had been followed, there was no requirement of conducting a separate domestic enquiry.

10. She submitted that the learned Labour Court failed to properly appreciate the respondent's own evidence. She submitted that the respondent, in his cross-examination, admitted that he had no documentary evidence to establish that the alleged communications regarding the illness had been sent to the management by post or through his colleagues. She submitted that the management could not have been faulted for acting upon the record available to it in the

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absence of any response from the respondent to the notices issued to him.

11. She submitted that the learned Labour Court further erred in relying upon the alleged leave applications without appreciating that the management's witness had only admitted their receipt and that the respondent had not established that the said applications had been duly sanctioned. She submitted that mere submission of an application for leave does not amount to sanction of leave.

12. She submitted that, in any event, the respondent attained the age of superannuation on 31.07.2024 and, therefore, the direction for reinstatement can no longer be implemented. She submitted that the respondent has also already received a sum of Rs.6,52,241/- pursuant to the attachment order passed by the SDM, Darya Ganj. She submitted that reinstatement with full back wages is not an automatic consequence even where termination is found to be improper, and that the appropriate relief must depend upon the facts and circumstances of each case.

13. *Per Contra*, the learned counsel for the respondent vehemently opposed the present petition. He submitted that the impugned award is well reasoned and the petitioner has failed to establish any grounds so as to warrant interference of this Court.

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14. He submitted that the respondent was a permanent employee of the petitioner and remained absent from duty from 10.10.1989 on account of an accident resulting in a fracture of his leg, due to which he remained under medical treatment. He submitted that upon recovery, the respondent reported for duty and furnished a medical fitness certificate, but was not permitted to resume duty.

15. He submitted that the respondent had, during the period of his illness, submitted several applications seeking leave and had duly intimated the petitioner about his medical condition. He submitted that the petitioner's own witness, Shri G.D. Srivastava, admitted in cross-examination that five applications seeking leave had been received from the respondent and that an application submitted by his wife had also been received.

16. He submitted that the petitioner could not have invoked Regulation 14(10)(c) of the Delhi Road Transport Authority (Conditions of Appointment & Services) Regulations, 1952 to declare the respondent as having deemed to have resigned from service without complying with the principles of natural justice. He relied upon ***Delhi Transport Corporation v. Om Kumar & Ors.*** **: 2001 SCC OnLine Del 1183**.

17. He submitted that, irrespective of whether the respondent's absence was characterised as unauthorised absence or abandonment of service, the petitioner was required to enquire into the circumstances

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and justification for such absence before taking any action resulting in termination of service. He submitted that the petitioner admittedly neither issued a chargesheet nor conducted any domestic enquiry against the respondent.

18. At the outset, it is necessary to note that the scope of interference under Articles 226 and 227 of the Constitution of India with an Award passed by the Labour Court is limited. This Court does not sit as a Court of appeal over findings of fact rendered by the Labour Court. Interference is warranted only where the findings are perverse, based on no evidence, suffer from patent illegality, or disclose a jurisdictional error. Reference in this regard may be made to the judgment in International ***Airport Authority of India v. International Air Cargo Workers Union*** **: (2009) 13 SCC 374** where the Hon'ble Apex Court held as under:

> *"47. It is true that in exercising the writ jurisdiction, the High Court cannot sit in appeal over the findings and award of the Industrial Tribunal and therefore, cannot reappreciate evidence. The findings of fact recorded by a fact-finding authority should ordinarily be considered as final. The findings of the Tribunal should not be interfered with in writ jurisdiction merely on the ground that the material on which the Tribunal had acted was insufficient or not credible.*
> *48. It is also true that as long as the findings of fact are based on some materials which are relevant, findings may not be interfered with merely because another view is also possible. But where the Tribunal records findings on no evidence or irrelevant evidence, it is certainly open to the High Court to interfere with the award of the Industrial Tribunal."*

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19. Adverting to the merits of the present case, the principal question which arises for consideration is whether the petitioner was justified in finding the respondent deemed to have resigned from service under Regulation 14(10)(c) of the Delhi Road Transport Authority (Conditions of Appointment and Service) Regulations, 1952.

20. Regulation 14(10)(c) provides that where an employee fails to resume duty on the expiry of the maximum period of extraordinary leave granted to him, or where the period of absence together with the extraordinary leave granted exceeds the permissible limit under Clause (b), "he shall be deemed to have resigned his appointment and shall accordingly cease to be in the employment of the authority."

21. The operation of Regulation 14(10)(c) has been considered by a Co-ordinate bench of this Court **in *DTC v. Om Kumar*, 2001 SCC OnLine Del 1183**. In the said judgment it was observed that the requirement of *audi alteram partem* must be read into its operation. The relevant extract of the same is reproduced hereinbelow:

> *"16. A distillation of the many judgments of the Hon'ble Supreme Court discloses that the consistent opinion has been its insistence that Statutes must conform with the acid test of rules of natural justice. The Apex Court has relentlessly struck down provisions in which the audi alteram partem principle has been ignored. Where it has been argued that this principle maybe read into the statutory provision the Court has accepted the plea and thereby saved it from being struck down as unconstitutional. In those cases where the vires of the Statute has not been assailed it has nonetheless*

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> *looked for a compliance with the audi alteram partem requirement, such as in the Aligarh Muslim University's case (supra) where it observed that nothing new had been stated by the petitioner in his writ petition apart from the reasons which had previously given by him to the University and had been rejected by it.**In the present case the statutory rule is not nullified by insisting that the DTC must enable the delinquent workman to be heard before his services are terminated on the premise of 'deemed resigantion'. On the Corporation issuing a notice to the workman he may furnish an unacceptable defence or no explanation at all. But it would atleast enable a workman who, by way of to take an illustration, may have suffered an accident on his way to reporting back for duty, to furnish an explanation which a reasonable Management would accept with alacrity. It would empower the DTC to apply the regulation after a due consideration of the cause shown by the workmen. Granting an opportunity to be heard does not inexorably result in an enquiry calling for being held."***
>
> (emphasis supplied)

22. The aforesaid position was specifically clarified by a co-ordinate bench of this Court in ***DTC v. Lakhmi Chand*** (*supra*). It was noted that ***Om Kumar*** had not struck down Regulation 14(10)(c), but had merely read into it the requirement of compliance with natural justice by affording an opportunity of hearing before dispensing with the services of an employee on the ground of deemed resignation. The Court expressly held that invocation of Regulation 14(10)(c) is not illegal *per se*; it is the invocation of the provision without compliance with natural justice which vitiates the decision. The relevant extract of the same is reproduced hereinbelow:

> *"10. Vikramajit Sen, J. (as His Lordship then was) did not, therefore, strike down Regulation 14(10)(c) of the Regulations in Om Kumar (supra); he merely read, into it, the requirement of*

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> *compliance with the principles of natural ;ustice, by affording an opportunity of hearing, to the workman concerned, before dispensing of his services on the ground of " deemed resignation ".* ***It is clear, from a holistic reading of the judgement, the invocation of Regulation 14(10)(c) has not held to be illegal per se, but that invocation of the said sub-Regulation, without complying with the principles of natural justice, by affording a prior opportunity of hearing to the workman concerned, was held to vitiate the decision****."*
>
> (emphasis supplied)

23. The aforesaid order was affirmed by a Division Bench of this Court in LPA No. 628/2018, wherein the Division Bench reiterated that Regulation 14(10)(c) was though not struck down by this Court in ***Om Kumar***, but was read down to incorporate the requirement of compliance with the principles of natural justice by affording the workman a prior opportunity of hearing before invoking the consequence of deemed resignation. The relevant observations are reproduced hereinbelow:

> *"2. The judgment of the learned Single Judge succinctly sets out the facts of the case in detail. In brief, the Respondent was regularly employed as a driver on 1st November 1974. He was arrested by the Rajasthan Police and remained in custody there between 24th April 1989 and 21st February 1991. The DTC treated his period of absence as extraordinary leave without pay and held him to have deemed to have resigned from his post under Regulation 14(10)(c) of the Delhi Road Transport Authority (Conditions of Appointment and Service) Regulations 1952 (hereinafter „Regulations"). Subsequently, this very regulation was read down by this Court in DTC v. Om Kumar 95 (2002) DLT 425 to be unconstitutional to the extent it did not require the employee to be issued a notice prior to declaring him to have deemed to have resigned. As rightly pointed out by the learned Single Judge in the impugned judgment, this Court in Om Kumar "did not, therefore, strike down Regulation 14(10)(c) of the*

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> *Regulations" but "merely read, into it, the requirement of compliance with the principles of natural justice, by affording an opportunity of hearing, to the workman concerned, before dispensing of his services on the ground of "deemed resignation".* ***Thus "the invocation of Regulation 14(10)(c) was not held to be illegal per se, but that invocation of the said sub-Regulation, without complying with the principles of natural justice, by affording a prior opportunity of hearing to the workman concerned, was held to vitiate the decision." This decision was subsequently upheld by the Supreme Court. The learned Single Judge held that since the DTC had adopted the route of „deemed resignation", there was no inquiry held for concluding that his absence was unauthorised."***
>
> (emphasis supplied)

24. Thus, it is no more *res integra* that before the consequence to Regulation 14(10)(c) is imposed upon an employee, principles of natural justice ought to be followed and the employee must be afforded a meaningful opportunity to explain the circumstances of his absence. The question in the present case is consequently whether that requirement stood satisfied.

25. In the present case, the respondent was declared deemed to have resigned under Regulation 14(10)(c) on account of his absence from duty with effect from 10.10.1989. However, the management witness, Shri G.D. Srivastava, admitted that the management had received five leave applications submitted by the respondent in respect of the period commencing from 10.10.1989, along with an application submitted by the respondent's wife. It was further admitted that none of the said applications were considered or decided by the management, nor was

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any reply furnished thereto or any verification undertaken regarding the circumstances stated therein.

26. It is no doubt correct that the mere submission of leave applications does not amount to sanction of leave. However, the significance of the said applications lies in the fact that they constituted the respondent's explanation for the very period of absence on the basis of which Regulation 14(10)(c) was invoked and the order of termination is completely silent in that regard. Once those applications had been received by the management, it ought to have considered and decided the same before proceeding to treat the respondent's absence as attracting the consequence of deemed resignation. The failure to do so assumes significance in the context of the requirement of principles of natural justice read into Regulation 14(10)(c).

27. The requirement of principles of natural justice cannot, in the present case, be treated as satisfied merely by issuance of a show cause notice. The management witness, Shri G.D. Srivastava, admitted that the leave applications submitted by the respondent in respect of the period of his absence had been received by the management, but had neither been considered nor decided. Significantly, the order dated 05.02.1990 declaring the respondent to deemed to have resigned is completely silent with regard to the said leave applications and does not disclose any consideration of the explanation furnished by the

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respondent for his absence. The issuance of a notice, without any consideration of the material placed by the respondent in response thereto or otherwise available with the management, would amount to no more than a formal compliance with the requirement of natural justice. An opportunity of hearing is not an empty exercise, the explanation furnished by the employee must receive due consideration before the consequence contemplated under Regulation 14(10)(c) is invoked. The procedure followed by the petitioner, therefore, cannot be said to have complied with the principles of natural justice.

28. It is also relevant that the management witness, G.D. Srivastava, while deposing before the learned Labour Court, stated that Regulation 14(10)(c) itself had been declared unconstitutional. It is also not in dispute that Regulation 14(10)(c) was subsequently withdrawn by DTC on 06.02.1991, just one year after the impugned order was passed.

29. This Court, while exercising jurisdiction under Article 226 of the Constitution, is not sitting as an appellate authority over the findings recorded by the Labour Court. Where the view taken by the Labour Court is a plausible view based upon the material available on record, interference would not be warranted merely because another view may also be possible.

30. Considering the totality of circumstances, this Court is of the opinion that the view adopted by the learned Labour Court is a

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plausible view and does not warrant interference of this Court under Article 226 of the Constitution.

31. However, it is pertinent to note that the respondent-workman has already attained the age of superannuation and has also received the amounts payable to him pursuant to the impugned Award. The only issue that, therefore, survives for consideration is the question of reinstatement, which is no longer feasible in view of the respondent having already crossed the age of superannuation.

32. In these circumstances, considering that the workman served the petitioner for around 5 years and has already received a sum of Rs.6,52,241/- before the Executing Court, this Court is of the opinion that awarding lump-sum compensation of ₹2,00,000/- to the respondent-workman in *lieu* of reinstatement would serve the ends of justice. The petitioner is directed to pay the aforesaid amount to the respondent within a period of 8 weeks of this order.

33. The present petition is disposed of and the impugned award is modified in the aforesaid terms.

34. Pending applications (if any) also stand disposed of.

AMIT MAHAJAN, J

OCTOBER 27, 2026

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