



2026:DHC:7513



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 2nd September, 2026***# **CNR No. DLHC011318542012**+ **W.P.(C) 5018/2012 & CM APPL. 13057/2021**

DELHI TRANSPORT CORPORATIONPetitioner

Through: Mrs. Avnish Ahlawat, SC, DTC
with Mr. N.K. Singh, Ms. Aliza
Alam, Mr. Mohnish Sehrawat
and Ms. Ananya Saxena, Advs.

versus

TRIBHUWAN SINGHRespondent

Through: Mr. Pankaj Chauhan, Adv.

CORAM:**HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present writ petition is filed under Article 226/227 of the Constitution of India, assailing the order dated 19.08.2009 and award dated 16.05.2011 (hereafter referred to as '**impugned award**') passed in I.D. No. 136/11, whereby the learned Labour Court held that the report of the Enquiry Officer suffers from perversity, and held that the termination of the Respondent/workman is illegal and unjustified.
2. Briefly stated, the workman was appointed by Delhi Transport Corporation ('**DTC**') on 08.02.1972 and was confirmed for the post of *Conductor* on 01.12.1973 and was posted at Kalkaji Depot.
3. On 06.01.1987, the workman performed his duties and returned



to the designated depot, deposited the waybill and the cash with the cashier and kept the unused tickets and bag of money in his locker no. 579.

4. Thereafter, the workman fell ill; applied for medical leave from 07.01.1987 to 11.01.1987. In the interim, on 09.01.1987, his locker was checked by the checking staff. He joined his duty back on 12.01.1987; and performed duty till 21.01.1987.

5. On 22.01.1987, the workman came to know that he had been suspended from his duty through the attendance register, as it was mentioned '*Suspended*' against his name.

6. The workman was served with a chargesheet on 30.01.1987, alleging misconduct on account of misappropriation of government funds. The workman enquired regarding the reason for suspension, to which he was apprised that, in his absence on 09.01.1987, his locker was checked by the authorities, and the tickets and bag of money were found short.

7. The enquiry was conducted and the Enquiry Report dated 28.08.1988 was submitted holding that the charges against the employee stood proved.

8. Thereafter, on 05.09.1988, the Disciplinary Authority issued Show Cause Notice to the workman. Upon consideration of the Reply/Representation filed by the workman, the Disciplinary Authority, *vide* Order dated 28.09.1988, removed him from service w.e.f. 29.09.1988.

9. Pursuant to the termination, the workman filed a suit for declaration and mandatory injunction before the learned Civil Judge,



Tis Hazari Court vide *Civil Suit No. 677/1988*, which was dismissed by the learned Civil Court on 19.01.1988 with the observations that the suit had been filed in the wrong forum and the learned Court did not have jurisdiction to decide Industrial disputes.

10. Thereafter, the workman preferred an appeal vide RCA No. 77/2000 before the learned ADJ assailing the order dated 19.01.1988. The learned ADJ, vide Order dated 27.09.2003, dismissed the appeal of the workman and observed that the appropriate remedy lies before the learned Labour Court.

11. Thereafter, the petitioner raised an industrial dispute before the learned Labour Court questioning the legality of the order.

12. The learned Labour Court framed issues vide order dated 01.12.2004, which reads as under:

“i) Whether services of workman have been terminated illegally and unjustifiably by the management and if so, what relief is he entitled to?

ii) Relief.

13. Thereafter, vide order dated 14.12.2005 additional issues were framed, which reads as under:

“i) Whether the inquiry conducted by the management was just and fair and the issue was treated as preliminary.

14. The learned Labour Court, while deciding the preliminary issue vide order dated 19.08.2009, held that the enquiry officer did not appreciate that witnesses had given contradictory statements and held the report of the enquiry officer perverse.

15. Thereafter, the learned Labour Court vide impugned award dated 16.05.2011, held that the enquiry conducted by the petitioner



was deficient and suffered illegality and granted the workman benefits till the date of superannuation, including all the retirement benefits as per the rules.

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

17. The learned counsel for the petitioner submits that the workman was terminated from service on 28.09.1988, and the workman has raised the industrial dispute only in November 2003 and filed a claim under Section 10-4A of the Industrial Disputes Act, after a gap of nearly 15 years. He submits that this objection was taken specifically by the petitioner in the written statement, yet the learned labour court failed to frame an issue on the aspect of delay.

18. He submits that even assuming the termination was found to be illegal, the grant of full back wages and continuity of service was wholly unwarranted on the facts of this case. He submits that back wages are not an automatic or natural consequence of a finding of illegal termination, and they are required to be independently examined. He submits that without considering the facts, the learned Labour Court granted relief to the workman.

19. *Per contra*, the learned counsel for the workman submits that there was no bar in law to the workman approaching the learned Labour Court directly under Section 10-4A of the Industrial Disputes Act, and that the delay stands duly explained as the workman was misguided, the workman also remained unemployed throughout and continued to pursue his remedy against an illegal termination.

20. He submits that the preliminary issue stands decided in the workman's favour by order dated 19.08.2009, and that the petitioner



had admittedly not challenged the order. He submits that this finding has therefore attained finality, and it is not open to the petitioner to re-agitate the correctness of the enquiry at this belated stage.

21. He further submits that the charge against the workman was entirely concocted, that the workman was on sanctioned leave and thereafter worked regularly and without any complaint; the workman was depositing his tickets and cash with the cashier every day. He submits that it was only on 22.01.1987 that the workman was suspended.

22. He further submitted that the workman's locker was illegally opened in his absence, without notice to him, and without being sealed. It is contended that after resuming work for more than 10 days there were no shortage tickets recorded against the workman. Thereafter, demonstrates that the charge was fabricated to falsely implicate him.

23. I have heard the counsel and perused the record.

24. At the outset, it is necessary to note that the scope of interference under Article 226 and 227 of the Constitution of India with an Award passed by the Learned Tribunal. This Court's interference is only warranted where the findings are perverse, based on no evidence, suffer from patent illegality or disclose a jurisdictional error. This Court, while exercising writ jurisdiction, cannot re-appreciate the evidence led before the learned Labour Court as though rehearing the matter on facts. Merely because another view on the evidence is possible would not justify interference. 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.”

25. A perusal of the order dated 19.08.2009 reveals that the learned Labour Court, while deciding the preliminary issue in favour of the workman, undertook a detailed examination of the evidence adduced during the enquiry. The learned Labour Court noted that the workman's locker had not been opened in the presence of the workman, nor in the presence of the Depot Manager or the security guard, namely Sh. Daulat Ram, who was admittedly on duty at the relevant time. It was further observed that the workman had not been informed before the locker was opened and that the checking of the



locker had not been conducted in the manner prescribed under Para 7 of Traffic Manual No. 4, as no independent physical witnesses were associated with the proceedings.

26. The learned Labour Court further noted that Sh. Daulat Ram, during his cross-examination, categorically deposed that when the officials checked the tickets, no deficiency was found therein. Likewise, the Ticket In-charge, Sh. Krishan Chand, did not depose that he had himself checked the tickets or that any discrepancy or deficiency had been detected. Thus, the material witnesses produced by the petitioner failed to substantiate the allegations. In the absence of cogent evidence demonstrating adherence to the prescribed procedure or establishing the alleged misconduct, the learned Labour Court concluded that the enquiry suffered from perversity and that the enquiry was "*not as per principle of natural justice.*"

27. It has been rightly observed by the learned Labour Court, *vide* Award dated 16.05.2011, that the petitioner failed to establish, by cogent and reliable evidence, that any notice had been served upon the workman prior to the opening of his locker. Upon a careful appreciation of the evidence on record, the learned Labour Court found that no contemporaneous document evidencing issuance or service of such notice had been produced. Equally significant was the fact that the petitioner was unable to prove that the locker had been sealed immediately after the alleged recovery, thereby casting serious doubt on the sanctity of the procedure adopted. The learned Labour Court further took note of the undisputed circumstance that the workman continued to discharge his duties from 12.01.1987 till



21.01.1987 without any restriction or objection from the management. Had the allegations against the workman been as serious as alleged, the conduct of the management in permitting him unrestricted access to the workplace during the raid period would have been wholly inconsistent with its stand.

28. On this basis, it was held that the petitioner had failed to prove the misconduct alleged in the charge-sheet dated 30.01.1987, and that the termination dated 29.09.1988 was illegal and unjustified and was accordingly set aside. Since reinstatement could not be directed on account of the workman having attained superannuation on 10.01.2004, the petitioner was directed to grant the workman continuity of service and all consequential and retiral benefits from the date of termination till superannuation, together with litigation costs of Rs. 10,000/-.

29. This Court is of the view that the Learned Labour Court has rightly considered all the evidence and facts placed on record and has examined the evidence produced by the parties and returned a considered finding on the fairness of the enquiry only after appreciation of the material on record. The learned Labour Court has rightly considered the evidence advanced by the parties and has taken a plausible view.

30. Further, the objection raised by the petitioner regarding the delay in filing of the dispute after 15 years of termination is without merit.

31. It is not disputed that the workman, prior to raising a claim, had filed a civil suit in the year 1988, which was dismissed and the appeal



against the order of dismissal of the civil suit was also dismissed in the year 2003. Thus, the workman was contesting the civil suit for a period of almost 15 years. Undisputedly, the petitioner was a party to the civil proceedings and had also taken an objection that the workman has an alternate remedy in approaching the Industrial Tribunal and therefore, the civil suit ought not to be entertained.

32. The said objection was accepted by the learned Civil Judge and the suit was dismissed.

33. I have my reservations towards the order passed by the learned Civil Judge since the remedy of the suit is not barred by any of the provisions under the Industrial Disputes Act. However, at the same time, a person cannot be left remediless, and if he has been following a wrong remedy, he is entitled to take recourse to the appropriate remedy and is also further entitled to the benefit of Section 14 of the Limitation Act.

34. As regards the question of relief, the workman, even prior to approaching the learned Labour Court, had already attained the age of superannuation. Therefore, in the opinion of this Court, no order of reinstatement or back wages can to be granted, and adequate compensation would be sufficient.

35. The workman, prior to being terminated in the year 1988, worked for 16 years with the petitioner. At the same time, it cannot be disputed that the proceedings, including the enquiry proceedings, have been mishandled by the petitioner and therefore, even though the workman has been exonerated, the same cannot be said to be without any reasonable doubt.



36. However, be that as it may, this Court cannot lose sight of the fact that mere finding of wrongful termination/discontinuation does not by itself grant a right of reinstatement or back wages to the aggrieved employee. The Hon'ble Apex Court has repeatedly held that reinstatement is not an automatic or mechanical consequence of an order of termination being held illegal and that the relief must be moulded having regard to the nature of employment, length of service and the surrounding circumstances of the case. Reference in this regard can be made to the decision of the Hon'ble Apex Court in **Allahabad Bank v. Krishan Pal Singh : (2021) 19 SCC 227**. The relevant extract of the same is reproduced hereinbelow:

“8. The directions issued by the High Court of Allahabad for reinstatement were stayed by this Court on 23-8-2019 [Allahabad Bank v. Krishan Pal Singh, 2019 SCC OnLine SC 2061] . During the pendency of these proceedings, the respondent workman had attained age of superannuation. Though, there was strong suspicion, there was no acceptable evidence on record for dismissal of the workman. However, as the workman has worked only for a period of about six years and he has already attained the age of superannuation, it is a fit case for modification of the relief granted by the High Court. The reinstatement with full back wages is not automatic in every case, where termination/dismissal is found to be not in accordance with procedure prescribed under law. Considering that the respondent was in effective service of the Bank only for about six years and he is out of service since 1991, and in the meantime, respondent had attained age of superannuation, we deem it appropriate that ends of justice would be met by awarding lump sum monetary compensation. We accordingly direct payment of lump sum compensation of Rs 15 lakhs to the respondent, within a period of eight weeks from today.



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Failing to pay the same within the aforesaid period, the respondent is entitled for interest @ 6% p.a., till payment.”

37. In the opinion of this Court, in the facts and circumstances of the present case, ends of justice will be met if the workman is awarded compensation of ₹8,00,000/-. The same is directed to be paid within four weeks from date of the present order.

38. Accordingly, the award is modified to that extent and the petition along with pending application(s), if any, stand disposed of in the aforementioned terms

AMIT MAHAJAN, J

SEPTEMBER 2, 2026

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