



2025:DHC:1479-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI
Judgment reserved on: 13.01.2025
Judgment pronounced on:07.03.2025

+ LPA 690/2018
DELHI TRANSPORT CORPORATION ...Appellant
Through: Mrs. Avnish Ahlawat,
SC with Ms. Tania
Ahlawat, Mr. Nitesh
Kumar Singh, Ms. Palak
Rohmetra, Ms. Laavanya
Kaushik & Ms. Aliza
Alam, Advs.

versus

RAM ...Respondent
Through: Mr. Anuj Aggarwal, Ms.
Divya Aggarwal, Mr.
Pradeep Kumar, Ms.
Kritika Matta & Mr.
Avinash Kumar, Advs.

+ LPA 707/2018
DELHI TRANSPORT CORPORATION ...Appellant
Through: Mrs. Avnish Ahlawat,
SC with Ms. Tania
Ahlawat, Mr. Nitesh
Kumar Singh, Ms. Palak
Rohmetra, Ms. Laavanya
Kaushik & Ms. Aliza
Alam, Advs.



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versus

RAM

...Respondent

Through: Mr. Anuj Aggarwal, Ms.
Divya Aggarwal, Mr.
Pradeep Kumar, Ms.
Kritika Matta & Mr.
Avinash Kumar, Advs.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. The Appellant/Delhi Transport Corporation (hereinafter referred to as “DTC”) has preferred these appeals under Clause X of the Letters Patent Appeal, impugning the common Judgment dated 19.09.2018 passed by the learned Single Judge in cross Writ Petitions bearing W.P.(C) No. 2081/2012 and W.P.(C) No.1614/2013 titled as “*Sho Ram v. DTC*” and “*Delhi Transport Corporation v. Sho Ram*” respectively, whereby the Respondent herein/workman (hereinafter referred to as “workman”). was granted full back wages, between the date of his termination i.e., 24.03.1988 till the date of his superannuation, being 31.01.2012.

2. The original industrial dispute pertained to the validity of the action of the DTC in terminating the services of the workman. The Industrial Tribunal, Karkardooma Courts (hereinafter referred to as



“**the Tribunal**”), *vide* the award dated 19.12.2011, answered the reference in favour of the workman holding that the workman’s termination of service was illegal and unjustifiable; but despite that, the Tribunal did not grant him any relief on the ground that the workman rejected the offer of the DTC to join duty along with 50% back wages in the year 1990. Aggrieved by the award dated 19.12.2011, both parties had filed writ petitions and now, after the impugned order, have emanated to present appeals before this Court.

3. The learned Single Judge *vide* the Impugned Judgment, while upholding the aspect of the illegal termination, in addition, has also held that the workman was entitled to full back wages from the date of his termination to the date of his superannuation, and thus, entitled to the retiral benefits as well.

4. Aggrieved by the said Judgment, the Appellant seeks to challenge the same, primarily urging that:

- (a) setting aside of the termination order of the workman, after lapse of 18 years, is barred by time, and
- (b) the workman was given an offer in the year 1990 to join the services with 50% back wages, on the same terms and conditions, as the other workmen, who were also terminated, despite which this workman did not re-join the service.

5. To bolster these arguments further, the Appellant placed reliance on the judgments of the Hon’ble Supreme Court in *Balbir*



Singh vs. Punjab Roadways¹ and ***Haryana State Cooperative Land Development Bank vs. Neelam***².

BRIEF FACTS:

6. The Respondent-workman was employed as a Conductor with the DTC. After raising certain demands and not receiving a resolution, the Respondent-workman and his colleagues (other workmen) began an indefinite strike at midnight on 16.03.1988. However, on the same day, the DTC closed the gates of all establishments.

7. The workmen preferred a Suit No. 583/1988 before this Court, wherein *vide* judgment dated 21.03.1988, the DTC was directed to permit willing workers to return to discharge their duties. However, by that date, the DTC had already terminated the services of the employees including the Respondent-workman as well.

8. The Respondent-workman filed a complaint under Section 33-A of the Industrial Disputes Act, 1947 (hereinafter referred to as “**the Act**”). However, the authorized representative appearing on behalf of the workman, made an erroneous statement before the Tribunal that the workman had been reinstated by the DTC, resulting in a no-dispute award on 04.04.1992. An application filed by the workman for setting aside the said award, was also withdrawn.

9. Subsequent thereto, the workman filed a fresh complaint bearing number 87/1996 before the Tribunal on the ground that the

¹Balbir Singh vs. Punjab Roadways 2001 (1) SCC 133

²Haryana State Cooperative Land Development Bank vs. Neelam 2005 (5) SCC 91



counsel was not instructed to withdraw the petition. By award dated 28.01.2004, the Tribunal permitted the workman to raise a fresh dispute under Section 10 of the Act.

10. In the fresh dispute, raised by the workman, the Tribunal framed the following issues as arising for its consideration in the proceedings *vide* order dated 07.03.2007: -

- “1. Whether the claim of the workman is barred by the principle of laches being filed after 15/16 years? OPM
2. Whether the management has contravened the provisions of Section 33 of the ID Act as alleged in para no. 12 of statement of claim, if so, to what effect? OPW
3. Whether the services of workman were terminated illegally? OPW
4. As per terms of reference. OPW.
5. Relief.”

11. Addressing the objection of delay and laches, the Tribunal held that the workman had been given liberty by order dated 28.01.2004 to file a fresh application before it. The Tribunal observed that the workman was illegally terminated on two grounds; *firstly*, that no enquiry had been conducted by the DTC against the workman, therefore, dismissal of the workman from service was found to be in violation of provisions under Section 33 of the Act; and *secondly*, relying on Article 311 of the Constitution, it was held that the services of the workman were terminated by the Depot Manager, as admitted by the Appellant, despite the fact that the appointing authority was the Chief General Manager, to whom the Depot Manager was subordinate.



12. The Tribunal, however, on the reasoning that the workman had only two months remaining before superannuation, and had not responded to the offer extended by the DTC, to re-join duties, declined reinstatement with back wages and other consequential benefits.

13. Being aggrieved by the said award dated 19.12.2011, the Writ Petition WP(C) No. 1614/2013 was filed by the DTC challenging the order setting aside the termination order and the Writ Petition WP(C) No. 2081/2012 was filed by the workman seeking full back wages and all consequential benefits including retiral benefits.

14. The learned Single Judge, after having considered at length, the history of litigations *inter partes*, statements of the parties before the Tribunal and also the benefits granted to the other workmen in the separate proceeding, dismissed the W.P.(C) No.1614/2013, and allowed the Writ Petition W.P.(C) No. 2081/2012. While doing so, the learned Single Judge found that the Tribunal was unjustified in holding that the workman would not be entitled to any back wages. The concluding observations of the impugned judgment are as follows:

“29. Having heard learned counsel for the petitioner at length, and perused the record, I find no substance, whatsoever, in the writ petition filed by the DTC. The finding, of the learned Tribunal, that the termination of the services of the workman was violative of Section 33 of the Act, is equally unexceptionable, as is the consequential observation, by the learned Tribunal, that the necessary sequitur, to the said finding, would be reinstatement of the said workmen with all consequential benefits.

30. Having so held, I am of the view that learned Tribunal was clearly unjustified in holding that the workman would not be



entitled to any back wages, merely because in its perception, he had declined an offer by the DTC to re-join the services. In any case, there can be no justification for discriminating the case of the present workman vis a-vis his compatriots, who, by virtue of the orders passed by the various judicial fora, culminating in the order/judgement dated 2nd August, 2017 (supra) of the Supreme Court, have been beneficiaries of full back wages. The case of the petitioner cannot be distinguished from the cases of the said workmen in any manner whatsoever.”

31. For the aforesaid reasons, these writ petitions are disposed of as under:

(i) WP(C) No.1614/2013, filed by the DTC, is dismissed.

(ii) WP(C) No.2081/2012, filed by the workman, is allowed to the extent that the workman is held entitled to full back wages, between the date of his termination, i.e. 24th March, 1988, till the date when he would have superannuated, being 31st January, 2012.

32. Needless to say, his retiral benefits would also be computed on the same basis.

33. The DTC is directed to disburse, to the workman the benefits which would ensure to him, consequent to the above decisions, within a period of four weeks from the date of communication, by the workman, to the DTC, of a certified copy of this judgement.”

15. The present Letters Patent to Appeal is preferred against the Impugned Judgement dated **19.09.2018**.

ANALYSIS:

16. The learned counsel for the Appellant would re-iterate their submissions that (a) the setting aside of the termination order of the workman, after lapse of 18 years, is barred by time, and (b) that the workman was not entitled to the reliefs, as despite the offer to re-join



services in 1990 on the same terms and conditions, with 50% back wages, the workman chose not to do so.

17. The Respondent supports the Judgment of the learned Single Judge and contends that here is no error in the same.

18. On the issue of limitation, the learned Single Judge has held as follows:

“19. Insofar as the objection of delay and laches is concerned, the present judgement is not required to be burdened by any detailed allusion thereto, as the workman had specifically been granted liberty, by the learned Tribunal, in its order dated 28th January, 2004, to file a fresh application before it. The said order was never challenged and, consequently, attained finality.”

19. We find no fault with the reasoning of the learned Single Judge in this respect. Having chosen not to appeal against the order granting liberty to the workman, the Appellant cannot seek to avail of any benefit from this argument.

20. The learned Single Judge has, thereafter, gone on to further note that the Appellant had conceded to the fact that dismissal had been effected without any enquiry and it was this finding, that had weighed on the Tribunal’s mind while setting aside the termination.

21. The learned Single Judge has also correctly observed that once the Tribunal found that the termination was illegal and that the consequence of the same was reinstatement with consequential benefits, there was no justification in the denial of the back wages merely on the ground that the workman had not accepted the Appellant’s offer to re-join services. This more so, when all other



similarly situated persons had already been granted the benefits of full back wages by the Hon'ble Supreme Court in the other proceeding. Non-grant of similar benefits was also held to be discriminatory.

22. There is the further argument of the Appellant in respect of Article 311 and its non-application insofar as the Appellant is concerned. Once the termination has already been held to be illegal on grounds of Section 33 of the Act and the lack of an enquiry, there arises no need for us to enter into that arena.

23. In view of our discussion above, while affirming the Judgment of the learned Single Judge, we are of the considered view that there is no merit in the present Appeals and the same are, consequently, dismissed.

24. While parting however, we would like to express our extreme displeasure at the manner in which the Appellant, who, for at least three decades, if not more, has constrained a former employee, a conductor at the time of his termination, to continue litigating for his rights. This is all the more striking in view of the fact that all similarly placed persons had already been given the benefits by the Hon'ble Supreme Court way back in 2017 itself. Despite the same, the present Appeal came to be filed sometime in 2018.

25. We believe that such rote filing of appeals should be discouraged and accordingly direct that the Appellant shall, within a period of three weeks, disburse to the workman, all the benefits he would be entitled to, as a consequence of the present Judgment. The



2025:DHC:1479-DB



Appellant shall, in addition to the costs awarded vide orders dated 10.12.2018 [in LPA 690/2018] and 12.12.2018 [in LPA 707/2018], within three weeks, pay the Respondent a further sum of Rs. 25,000/- (Twenty Five Thousand Only) for the protracted litigation that it has forced the workman to endure.

26. The present appeals and all pending applications, if any, are disposed of in the above terms.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

MARCH 07, 2025/sm/ er