

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

+ LPA 2373/2006 and LPA 298/2007

% **Date of decision: 21.2.2008**

1. **LPA 2373/2006**

NARESH KUMAR Appellant
Through Mr.Anil Mittal, Advocate
versus
D.T.C. Respondent
Through Mr.Sumeet Pushkarna with
Ms.Shista Siddiqui, Advocates

2. **LPA 298/2007**

D.T.C. Appellant
Through Mr.Sumeet Pushkarna with
Ms.Shista Siddiqui, Advocates
versus
RAM KISHAN Respondent
Through Mr.Anil Mittal, Advocate

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether reporters of local papers be allowed to see the judgment ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether the judgment should be reported in the Digest?Y

DR. MUKUNDAKAM SHARMA, CJ (Oral)

1. These appeals involve similar issues and, therefore, we propose to dispose of these appeals by this common judgment and order. In similar appeal being LPA No.156/2001 titled **Ram Dutt v. DTC and another**, a Division Bench of this Court passed an order on 17th August, 2006 to the following effect:

“It is not in dispute that the judgment dated 18.04.2006

passed in the case of DTC v. Prakash Chand by the Hon'ble Supreme Court in Civil Appeal No(s) 7110-7111/2004 covers the issue involved in the present appeal. We are of the view that the present appeal should stand disposed of in terms of the said judgment.

Accordingly, we direct that the appellant shall be reinstated without laying any claim for back wages in accordance with the directions given by the Hon'ble Supreme Court in the case DTC v. Prakash Chand in paras 1 and 2. The appellant is directed to join the duty within six weeks from today.

The period during which the appellant remained out of service will be taken into account for the purpose of continuity so that certain retiral/ pensionary benefits can be given to the appellant. The appellant will not claim any back wages for the period when he was out of service. The respondent shall also not recover any amount paid to the appellant during this period.

With these directions, this appeal stands disposed of.”
(EMPHASIS SUPPLIED)

This is in fact reiteration of the orders of the Supreme Court in Civil Appeal No.7110-7111/2004 titled **DTC v. Prakash Chand**.

Another Division Bench of this Court by an order dated 30th May, 2006 in CM No.7926/2006 titled **DTC v. Naresh Kumar** while disposing the writ petition observed as under:

“Considering the above circumstances, we are of the view that since the appellant themselves got this appeal adjourned to await the orders of the Hon'ble Supreme Court, similar orders as that of the Hon'ble Supreme Court needs to be passed in the present matter also. Accordingly, the respondent is granted reinstatement w.e.f. 1st July, 2006 subject to his foregoing all claims for back wages arising from the award dated 17.4.2001.”

We find no reason to take a different view and we pass similar orders. We feel that the workmen have been reinstated in service without laying any claim for back wages. Therefore, we order that the workmen shall not claim any back wages for the period when they were out of service. The management shall also not recover any amount paid to the workmen during this period.

The appeals stand disposed of in terms of the aforesaid order.

CHIEF JUSTICE

REVA KHETRAPAL, J

FEBRUARY 21, 2008
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