

REPORTED

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

+ LPA 56/2008 and CM Nos.1858-59/2008

% Date of Decision: 19<sup>th</sup> February, 2008

SH. DHARAM PAL ..... Appellant  
Through: Ms. Rasmeet K. Charya, Advocate  
versus  
D.T.C. .... Respondent  
Through: Ms. Avnish Ahlawat and Ms. Latika  
Chaudury, Advocates

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

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

**JUDGMENT**

% **19.02.2008**

: **DR. MUKUNDKAM SHARMA, CJ. (ORAL)**

1. This appeal is directed against the order dated 09.11.2006 passed by the learned Single Judge on the writ petition filed by the respondent whereby the award passed by the Tribunal was set aside.
2. The appellant herein was working as a driver with the respondent Corporation. He absented himself from duties without any intimation to the respondent and also without filing any leave application in April, 1988. His whereabouts were not known from 1988 to 1998 for long ten years. In the meantime, the Management wrote several letters to him asking him to join, but despite such

letters the appellant did not join the service of the respondent Corporation. In the letter written by the respondent dated 08.07.1988, it was specifically stated that no leave could be granted to the appellant beyond three months and that if he does not report for duty, he would be considered to have resigned. Despite the aforesaid letter dated 08.07.1988, the appellant did not send any intimation nor submitted any leave application. Consequently, an order was passed by the respondent on 28.07.1988 declaring that the appellant was deemed to have resigned from service. After ten years of time, the appellant suddenly woke up to submit an application to allow him to join the duty and for restoring his previous job, contending that he had been kidnapped. However, in support of the same, he could not place any documentary evidence or any letter supporting the fact that any FIR was lodged. The appellant submitted a request to the appropriate Government for referring a dispute, which was referred in the following terms:

*“Whether the punishment inflicted upon Shri Dharam Pal by the management vide its order dated 28.7.1988 is illegal and/or unjustified and if so, to what relief is he entitled and what directions are necessary in this respect?”*

3. The Tribunal, however, passed an award holding that the invocation of the provisions of Clause 14(10)(c) of the D.R.T.A. (Conditions of Appointment and Service) Regulations, 1952 by the respondent was bad as the said provisions have been held to be ultra vires the Constitution by the Delhi High Court in the case of

**D.T.C. vs. Om Kumar & Ors.** in WP(C) No.4231/97. The respondent being aggrieved filed a writ petition against the aforesaid award passed by the Tribunal. The learned Single Judge before whom the writ petition was filed considered the contentions raised and on going through the records held that the appellant had made representations giving false and vague stories and that in two different representations he had given two different stories. Learned Single Judge also found that the appellant had knowledge that his services had been terminated on 27.07.1988, but still he did not approach any labour authority against the termination of his service and that for the first time he made such a representation on 11.03.1998 only. The reference was made sometime in the year 2000 by the appropriate Government. The appellant never attended duties from 17.04.1988 for long ten years and an application was filed to allow him to join duties after long ten years. The reason given by him for his absence was also found to be false and vague by the learned Single Judge and, therefore, there was clearly abandonment of service by the appellant. In that view of the matter, the learned Industrial Adjudicator could not have directed for his reinstatement in service with full back wages.

4. The claim of the appellant for reinstatement itself, in our considered opinion, was barred by the principle of laches and inordinate delay and, therefore, the impugned order calls for no interference. It was submitted by the counsel appearing for the

appellant that reference having been made by the appropriate Government to the Labour Court, the said reference could not have been dismissed by the learned Single Judge on the ground of delay and laches. In our considered opinion, the aforesaid submission is also without any merit, for, while allowing the writ petition the learned Single Judge has referred to and relied upon the decisions of the Supreme Court in **Asstt. Engineer, CAD, Kota and Dhan Kunwar 2006 (3) LLJ (12)** and also the decision in **The Nedungadi Bank Ltd. vs. K.P. Madhavankutty and Ors. AIR 2000 SC 839.**

5. We may also refer to the decisions of the Supreme Court in **Viveka Nand Sethi vs. Chairman, J&K Bank Ltd. and Ors. (2005) 5 SCC 337, Syndicate Bank vs. General Secretary, Syndicate Bank Staff Association and Anr. 2000 SCC (L&S) 601** and **Chief Engineer (Construction) vs. Keshava Rao (Dead) by Lrs. 2005 SCC (L&S) 872,** wherein also the Supreme Court has held that a workman who has not reported for duty and thereafter approaches after long delay for reinstatement should not be given relief. We, therefore, find no merit in this appeal. LPA 56/2008 and CM Nos.1858-59/2008 are accordingly dismissed.

**CHIEF JUSTICE**

**REVA KHETRAPAL, J**

**FEBRUARY 19, 2008**  
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