

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

+ **W.P.(C.) No. 5377/2008**

% **Date of Decision: 10th September, 2009**

SHRI RAMESH KUMAR

..... PETITIONER

! Through: Mr. Anuj Aggarwal, Advocate.

VERSUS

\$ DELHI TRANSPORT CORPORATION

.....RESPONDENT

^ Through: Mr. Hanu Bhaskar, Advocate.

CORAM:

Hon'ble MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper may be allowed to see the judgment? **NO**
2. To be referred to the reporter or not? **NO**
3. Whether the judgment should be reported in the Digest? **NO**

S.N.AGGARWAL, J (ORAL)

The petitioner in this writ petition seeks to challenge an industrial award dated 01.09.2007 in ID No.141/2000 by which his removal from the service of the DTC has been found to be lawful and for that reason, he has been denied any relief by the Industrial Adjudicator.

2 The petitioner was working as a Conductor with the DTC. He was removed from the service w.e.f. 18.12.1992 for remaining absent unauthorizedly for 129 days during the period from 01.01.1991 to 31.12.1991. The court below in para 14 of the impugned award has noted the past conduct of the petitioner while affirming his removal from the service of the DTC. The petitioner was a habitual absentee and he remained unauthorizedly absent for 99 days in 1989, 153 days in 1990 and for 129 days in 1991. In fact the petitioner admits his unauthorized absence in all these years.

3 Mr. Anuj Aggarwal learned counsel appearing on behalf of the petitioner submits that in 1991, the petitioner was absent unauthorizedly for 129 days as he was suffering from jaundice and typhoid during the said period of his unauthorized absence. In fact this plea raised on behalf of the petitioner tends to justify the unauthorized absence of the petitioner in the year 1991. The petitioner, however, does not dispute his unauthorized absence for 129 days in 1991 and even in the previous years as mentioned above. In terms of the judgment of the Hon'ble Supreme Court in ***Delhi Transport Corporation Vs. Sardar Singh reported as (2004) 7 SCC 574***, the unauthorized absence of a conductor in DTC for a long time amounts to misconduct and is liable to be visited with the punishment of removal from service.

4 In view of what has been stated above, I do not find any perversity or illegality in the impugned award that may call for an interference by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India. This writ petition therefore fails and is hereby dismissed in limine.

September 10, 2009
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S.N.AGGARWAL, J