

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

+ **W.P.(C.) No. 8987/2007**

% **Date of Decision: 09th September, 2009**

SH. SUBASH CHANDER

..... PETITIONER

! Through: Mr. V.K. Sidharthan, Advocate.

VERSUS

\$ DELHI TRANSPORT CORPORATION

.....RESPONDENT

^ Through: Ms. Charul Sarin, 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)

This is a writ petition under Article 226 of the Constitution of India filed by the workman seeking to challenge an industrial award dated 24.10.2007 by which his removal from the service of the management of the Delhi Transport Corporation w.e.f. 24.04.1995 has been found to be legal and just.

2 Mr. V.K. Sidharthan learned counsel appearing on behalf of the petitioner seeks to assail the impugned award only on following two grounds:-

- (i) *The Depot Manager who has passed the impugned order of removal against the petitioner was not competent to pass the said order and*
- (ii) *There was complete non-application of mind on behalf of the disciplinary authority as well as on the part of appellate authority in not correctly appreciating the evidence produced by the workman in his defence to the charges leveled against him.*

3 As far as objection of the petitioner regarding competence of the Depot Manager to pass the impugned order of removal against the petitioner is concerned, the said contention has been dealt with by the Division Bench in the case of **Raghunandan Sharma Vs. Delhi Transport Corporation & Anr. reported as 54(1994) DLT 370 (DB)** wherein it was held as under:-

“Having considered all aspects we are of the view that the power conferred on the Depot Managers by virtue of the Resolutions passed by the D.T.C. Board deriving source from the provisions of Section 12(1)(c) of the Road Transport Corporation Act is valid exercise of statutory powers and the initiation of disciplinary action and issuance of the show cause notices as the case may be by the Depot Managers in these various cases, is valid. The initiation or taking of disciplinary action by the Depot Managers cannot be faulted on the ground of lack of power or authority in the officer concerned.”

4 The view taken by the Division Bench in the aforementioned judgment has been followed by another Division Bench of this Court in the case of **Prem Chand Vs. Delhi Transport Corporation & Ors. 59 (1995) DLT 502 (DB)**.

5 In view of the above two judgments of the Division Bench, Mr. Sidharthan learned counsel appearing on behalf of the petitioner does not press his objection regarding competence of the Depot Manager in passing the impugned order of removal against the petitioner.

6 As far as objection of the petitioner regarding non-application of mind on the part of the disciplinary and appellate authority is concerned, the same cannot be looked into by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution. The petitioner before his removal from the service of the respondent corporation was working as a Conductor in Delhi Transport Corporation since 1984. He was charge-

sheeted on 19.01.1994 on the allegations that on 23.12.1993 while he was on duty on bus No. DL-1P-9387 Delhi-Nainital Route, checking officials checked his bus at Old Toll Tax Barrier at about 2010. It was found by the checking officials that he was sitting on the front seat but did not open the gate for the checking officials. On seeing them, he started punching/issuing the teckters to the passengers from whom he had already collected fare. When the gate was opened, 10 passengers in two groups of 2 and 8 told that they boarded the bus at Nainital. The Conductor collected the fare from them but did not issue them tickets till he saw the checking officials. When the way bill voucher was checked it was found that there was no entry regarding those tickets in the way bill voucher and when cash was checked, it was found that Rs.32.50 were in excess which amounts to misconduct under Para 19(b) and (m) of DRTA.

7 A domestic inquiry into the charges was held against the petitioner in which he was found guilty of the said charges. The Tribunal below has found for cogent reasons that the domestic inquiry held against the petitioner was in consonance with the principle of natural justice. Learned counsel appearing on behalf of the petitioner could not point out any perversity in the impugned award of the Tribunal below which may call for an interference by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution.

8 In view of what has been stated above, I do not find any merit in this writ petition which fails and is hereby dismissed leaving the parties to bear their own costs.

September 09, 2009
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S.N.AGGARWAL, J