



\$~17

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

+ **W.P.(C) 11022/2016**

DELHI TRANSPORT CORPORATION Petitioner
Through: Mr. Rikky Gupta, SC with Ms.
Ananya Singh, Adv.

versus

SURENDER SINGH Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **29.07.2026**

1. The present petition is filed under Article 227 of the Constitution of India assailing award dated 31.05.2016 (hereinafter '**impugned award**') passed by the learned Labour Court whereby the respondent was awarded 50% back wages from 01.08.2007 upto the date of his superannuation.

2. Learned counsel for the petitioner submits that the Reference under Section 10 of the Industrial Disputes Act, 1947 ('the I.D. Act'), in the present case, was made by the Central Government after inordinate delay of 15 years. He submits that the respondent was terminated by order dated 13.10.1992 after holding a valid enquiry and no reference could have been given after such a prolonged period of time. He submits that the dispute had become stale and no Industrial Dispute existed at the time of Reference.

3. The record indicates that the Memo, in the present case, was issued to respondent for remaining absent, on 20.11.1991. After holding an enquiry, an order of termination was passed on 13.10.1992. The petitioner department thereafter filed an application under Section 33(2)(b) of the I.D. Act seeking approval of the action of removal



before the Industrial Tribunal, which led to passing of the orders dated 17.10.2000 and 15.01.2001.

4. It was held that the petitioner department has been able to establish that the respondent had committed misconduct by remaining absent without intimation. The application under Section 33(2)(b) of the I.D. Act was thus allowed.

5. It is also significant to note that the respondent in the proceedings under Section 33(2)(b) of the I.D. Act was represented by an Authorized Representative and, therefore, was aware of the proceedings throughout.

6. The Reference under Section 10 of the I.D. Act, however, was made on 31.07.2007, which in the opinion of this Court, in regard to the order of termination, which was passed almost 15 years back, was highly belated and sought to reopen a stale dispute.

7. It is well settled that though the law does not prescribe any lime limit for the appropriate government to exercise its powers under Section 10 of the I.D. Act, the same cannot be exercised unreasonably to revive stale matters or matters which had since been settled. Reference in this regard may be drawn to the judgment in **Nedungadi Bank Ltd. v. K.P. Madhavankutty and Ors. : (2000) 2 SCC 455**, where the Hon'ble Apex Court held as under:

“6. Law does not prescribe any time-limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Section 10 of the Act. As



to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made. The only ground advanced by the respondent was that two other employees who were dismissed from service were reinstated. Under what circumstances they were dismissed and subsequently reinstated is nowhere mentioned. Demand raised by the respondent for raising an industrial dispute was ex facie bad and incompetent.

7. In the present appeal it is not the case of the respondent that the disciplinary proceedings, which resulted in his dismissal, were in any way illegal or there was even any irregularity. He availed his remedy of appeal under the rules governing his conditions of service. It could not be said that in the circumstances an industrial dispute did arise or was even apprehended after a lapse of about seven years of the dismissal of the respondent. Whenever a workman raises some dispute it does not become an industrial dispute and the appropriate Government cannot in a mechanical fashion make the reference of the alleged dispute terming it as an industrial dispute. The Central Government lacked power to make reference both on the ground of delay in invoking the power under Section 10 of the Act and there being no industrial dispute existing or even apprehended. The purpose of reference is to keep industrial peace in an establishment. The present reference is destructive to the industrial peace and defeats the very object and purpose of the Act. The Bank was justified in thus moving the High Court seeking an order to quash the reference in question.”

8. The appropriate government, in the present case, ought not to have mechanically made a reference for a dispute which arose from a termination which took place 15 years ago and in the opinion of this Court was a stale dispute.

9. In view of the above, the present petition is allowed.

10. A sum of ₹2,00,000/- deposited by the petitioner with the Registrar General of this Court is directed to be released in favour of the petitioner with all the accrued interest.

AMIT MAHAJAN, J

JULY 29, 2026 / “SK”