

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

+ **W.P.(C) 6603/2001**

% Judgement reserved on: 21.01.2015
Judgement pronounced on: 09.02.2015.

D.T.C. Petitioner

Through: Mr.Adesh Kumar, Advocate.

versus

PREM SINGH Respondent

Through: Mr.G.S. Charya, Advocate.

AND

+ **W.P.(C) 4071/2004**

D.T.C. Petitioner

Through: Mr. Adesh Kumar, Advocate.

versus

PREM SINGH Respondent

Through: Mr. G.S. Charya, Advocate.

CORAM:

HON'BLE MS. JUSTICE DEEPA SHARMA

JUDGMENT

1. Vide this common judgment, I propose to dispose of W.P.(C) No.6603/2001 and W.P.(C) No.4071/2004 since in both the cases, common question of law and facts are involved.

2. The brief facts in both the petitions are that the respondent-workman was in the employment of the petitioner as a driver. He was employed on 31.05.1979. On 31.12.1988, while he was on duty and driving Bus No.DEP-9353 on route No.SS(-), GTB Nagar, he allegedly was driving the said bus

in rash and negligent manner and carelessly and caused an accident which resulted into the death of a cyclist Ram Prasad. The workman was arrested on the spot and a criminal case vide FIR No.440/88 under Section 279/304-A of IPC was registered against him and since the offence was bailable, he was released on bail.

3. Depot Manager, Wazirpur Depot, Shri Bhoop Singh, Assistant Traffic Inspector thereafter reached at the spot and after making enquiries, submitted his report. He reported that at the time when the cyclist was taking a left turn, Prem Singh-workman also took a left turn towards Madipur and hit the cyclist. His report shows that accident had occurred since Prem Singh-workman while taking a left turn did not take a broad turn but took a narrow turn. The cyclist received head injuries and died on the way to the hospital.

4. On the basis of this report, a charge-sheet dated 12.04.1989 for misconduct was issued and received by the respondent on 26.04.1989. He replied the charge-sheet vide his reply dated 16.05.1989. His reply was duly considered and on consideration, it was found unsatisfactory. An enquiry into the charges was ordered. The enquiry was conducted and during the enquiry, the Management had examined Prem Chand, Assistant Traffic

Inspector. He had duly supported the petitioner's case. The workman-respondent was asked to cross-examine the witness of the petitioner, but he refused to do so. He was also asked to produce his evidence in defence, but he also refused to produce any evidence. On 08.08.1989, the enquiry was completed and on 23.08.1989, Enquiry Officer gave its findings that the misconduct was proved against the workman-respondent.

5. A show-cause notice was issued to the respondent. Instead of submitting a reply to the show-cause notice, the workman sent a letter dated 06.08.1989 and also filed a suit for declaration and permanent injunction against show-cause notice of removal. But, he did not succeed in obtaining stay from the Court. Thereafter, vide order dated 07.04.1992, the services of the workman-respondent were terminated and he was paid one month notice salary through money order at his permanent address.

6. After about two years and three months, the workman-respondent raised an industrial dispute by filing a statement of claim, challenging his dismissal and it was registered as ID No.54/1994 before the Labour Court.

7. The petitioner had also filed an application under Section 33(2)(b) of the ID Act for approval of the dismissal order which was registered as O.P.No.149/1992.

8. Meanwhile, the respondent was also acquitted in FIR No.440/1988 by the Metropolitan Magistrate of charges of rash and negligent driving of the bus. In both the cases, the learned Labour Court found that there was no formal defect in the enquiry. He, however, gave findings that since there was no evidence before the Enquiry Officer to prove the misconduct, the findings of Enquiry Officer were vitiated.

9. In both the cases, the Labour Court had set aside the enquiry report on the ground that the findings were vitiated and in these two writ petitions the said finding of Labour Court is under challenge. In W.P.(C) No.6603/2001, the said order is dated 13.01.2000 and 01.06.2000 and in W.P.(C) No.4071/2004, it is dated 24.01.2003. In W.P.(C) No.6603/2001, ID No.54/1994 was subsequently dismissed vide order dated 01.06.2000. All these orders are under challenge.

10. In ID No.54/94, an order dated 13.01.2000 was passed by the Labour Court. The findings of the Labour Court are in two parts. In one part of its order, the Labour Court has held as under:-

“9. I have perused the record of the enquiry proceedings which has been proved as Ex.WW1/M1 and Ex.WW1/M2. Charge sheet was duly issued to the claimant specifying in clear

terms as to what was the misconduct imputed to him. There is no ambiguity in the chargesheet. The claimant participated in during the course of enquiry. Witness was examined in his presence and he refused to cross-examine the witness. These proceedings have been signed by the claimant. Nowhere during the course of proceedings, the claimant raised any objection nor he sought the assistance of any lawyer or/ colleague to assist him during the course of enquiry. Even he was afforded an opportunity to make a representation against the proposed punishment, therefore, I do not find that there is any formal defect in conducting the enquiry by the Enquiry Officer. He has ensured an opportunity to confront the witness and lead his own evidence. To my mind, the enquiry is not bad on account of any formal defect.

11. This part of the order of Labour Court is not under challenge. Therefore, this finding of the Labour Court that the enquiry is not bad on account of any formal defect and that the principles of natural justice had been followed and the respondent was given due hearing and opportunity by the Enquiry Officer have become final.

12. It is the second part of the order of Labour Court which is under

challenge before this Court in W.P.(C) No.6603/2001. The findings are as under:-

“10. However, if, I perused the record of the proceedings of enquiry in order to ascertain any substantive defect in the enquiry, I come to the conclusion that the conclusion reached by the Enquiry Officer regarding guilt of the claimant is not based on any primary evidence. Shri Prem Chand who is the solitary alleged eye witness and on whose testimony, report of the Enquiry Officer is based is not an eye witness of the accident. According to his own testimony, on the date of accident, he went to the Police Station where he met the staff and on enquiry, he came to know that when the D.T.C. bus was taking a turn from inside Madipur, a cyclist came from the left side of the bus and took a turn in the same direction in which, the bus was taking turn and the left panel of the bus touched the cycle, as a result of which, he fell down and sustained injuries.

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The version which Shri Prem Chand has stated before the Enquiry Officer is that of a Depot Manager Shri Bhoop Singh who has not been examined during the course of his enquiry.

Secondly, whatever he has deposed is based upon either on the basis of information furnished to him by the DTC staff in PS Madipur who was present in PS Madipur or Bhoop Singh. None of these persons has been examined.

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The conclusion of the Enquiry Officer are not based on substantive evidence on record but, are based on the opinion of a witness whose own opinion are based on second hand information collected by him from various sources. I, therefore, come to the conclusion that the enquiry is vitiated on the ground there was hardly any evidence on record which points to the negligence on the part of the claimant.”

13. The Labour Court thus has set aside the enquiry solely on the ground that it was vitiated as based on no evidence to conclude that the accident was the result of negligence on the part of the workman.

14. It is argued on behalf of the respondent that an award of the Labour Court can only be interfered with when the same suffers with perversity or when there is an error apparent on the face of the record. It is further argued that the award clearly shows that there was no evidence before the Enquiry Officer to prove the guilt of the workman. It is argued that the Tribunal has

correctly opined that Prem Singh was not a primary or alleged eye-witness, on whose testimony the report was prepared and thus his testimony is merely an opinion, based on the information furnished to him by Bhoop Singh, who has not been examined before the Tribunal. It is further argued that even before the Court when an opportunity was given to the petitioner, the petitioner did not produce any evidence to prove the alleged misconduct. Hence, there is no error of law in the award dated 01.06.2000 and order dated 13.01.2000 and dated 24.01.2003 and the writ petitions are liable to be dismissed. The reliance has been placed on the judgment **Delhi Transport Corporation vs. Shyam Singh** 190(2012) DLT 1991 (DB) and it is argued that a departmental enquiry cannot be held to be conducted in accordance with the principles of natural justice merely because sufficient opportunity of hearing had been given to the workman. It is also argued that in view of the recent judgment of Supreme Court in **Deepali Gundu Surwase vs. Kranti Junior Adhyapak Maha Vidyalaya & Ors.** (2013) 10 SCC 324, the workman-respondent is entitled for the full back wages on setting aside of dismissal order.

15. On the other hand, it is argued on behalf of the petitioner that the findings of the Industrial Tribunal are against the settled principles of law. It

is argued that it is a settled principle of law that though the standard of proof in a criminal case is a proof beyond all reasonable doubts, the proof in departmental proceedings is preponderance of probabilities and, therefore, the findings of the Tribunal that there was no substantive evidence to prove the misconduct, is against the canons of law. It is argued that after the accident which resulted into the death of one cyclist, the respondent was arrested at the spot and a criminal case was registered against him. The Accident Committee of petitioner had also found that the respondent at fault. Bhoop Singh had reached at the spot and conducted the enquiry and submitted his enquiry report to Prem Chand, Assistant Traffic Inspector, who on the basis of report of Bhoop Singh, has clearly stated that the fault was of the respondent. It is further argued that the respondent had not cross-examined Mr Prem Chand, Assistant Traffic Inspector, during the enquiry proceedings and thus his testimony remained uncontradicted and this important factor has not been considered by the Tribunal and so the finding that there was no evidence against the respondent-workman is contrary to record. On these facts, it is submitted that the orders dated 13.01.2000 and 24.01.2003, whereby the enquiry was set aside are liable to be quashed.

I have given due consideration to the rival contentions of the parties.

16. From the arguments of learned counsel for the parties, it is apparent that while the contention of the petitioner is that sufficient evidence had been produced by the petitioner during the enquiry which by preponderance proves the misconduct and so the enquiry is not vitiated, the contention of the respondent-workman is that no eye-witness to prove the guilt of the workman-accused was examined during the enquiry and, therefore, the enquiry was vitiated and thus the findings of the Industrial Tribunal does not suffer from any illegality or infirmity.

17. The issue, therefore, is whether there was sufficient evidence before the Enquiry Officer to return the findings of guilt against the respondent-workman. This question requires the probe into the standard of proof required in the domestic enquiry proceedings to prove a misconduct?

18. The Supreme Court in the case of **Cholan Roadways Limited vs. G. Thirugnanasambandam** (2005) 3 SCC 241 has clearly held as under:-

“15. It is now a well-settled principle of law that the principles of Evidence Act have no application in a domestic enquiry.”

19. The Apex Court has further held on relying on the findings in **Maharashtra State Board of Secondary and Higher Secondary Education v. K.S. Gandhi and Ors.** [1991] 1SCR773 as under:-

“16. It is thus well settled law that strict rules of the Evidence Act, and the standard of proof envisaged therein do not apply to departmental proceedings or domestic tribunal. It is open to the authorities to receive and place on record all the necessary, relevant, cogent and acceptable material facts though not proved strictly in conformity with the Evidence Act. The material must be germane and relevant to the facts in issue. In grave cases like forgery, fraud, conspiracy, misappropriation, etc. seldom direct evidence would be available. Only the circumstantial evidence would furnish the proof. In our considered view inference from the evidence and circumstances must be carefully distinguished from conjectures or speculation. The mind is prone to take pleasure to adapt circumstances to one another and even in straining them a little to force them to form parts of one connected whole. There must be evidence direct or circumstantial to deduce necessary inferences in proof of the facts in issue. There can be no inferences unless there are objective facts, direct or circumstantial from which to infer the other fact which it is sought to establish. The standard of proof is not proof beyond reasonable doubt but the preponderance of probabilities tending to draw an inference that the fact must be more probable. Standard of proof, however, cannot be put in a strait-jacket formula. No mathematical formula could be laid on degree of proof. The probative value could be gauged from facts and circumstances in a given case. The standard of proof is the same both in civil cases and domestic enquires.”

20. In the case supra, the Court has distinguished the standard of proof required in criminal case and in domestic enquiry. The Court has observed as under:-

“19. It is further trite that the standard of proof required in a domestic enquiry vis-à-vis a criminal trial is absolutely different. Whereas in the former 'preponderance of probability' would suffice; in the latter, 'proof beyond all reasonable doubt' is imperative.”

21. Thus, it is clear that in the domestic enquiry, the principles of Evidence Act has no applicability and the Courts, while dealing with the validity of enquiry report, has to see whether the enquiry officer had substantial evidence to deduce necessary inferences as proof of the facts of the case. The Court in the case supra has held that examination of eye-witness is not necessary in a departmental enquiry.

22. The question, therefore, is whether, in fact, there was no evidence before the Enquiry Officer as proof of the fact of rash and negligent driving of the bus by the workman. The Labour Court had missed the point while holding that Bhoop Singh has not been examined during the enquiry. The enquiry proceedings clearly show that the Enquiry Officer enquired from the workman whether he wanted to cross-examine Bhoop Singh and, the workman instead of seizing the opportunity to cross-examine Bhoop Singh,

refused to cross-examine the witness. Therefore, it cannot be said that the petitioner had no intentions to examine Bhoop Singh during the enquiry proceedings. The petitioner did tender the evidence of Bhoop Singh and was ready to examine him, but, did not examine him only because the respondent showed no desire to cross-examine the witness. Also, the Labour Court had ignored the fact that the statement of witness Prem Chand, Assistant Traffic Inspector, had remained uncontradicted since he was not cross-examined by the respondent.

23. Prem Chand, Assistant Traffic Inspector, vide his uncontradicted testimony has proved on record the following facts:-

- a. that an accident had taken place at the turning of Madipur;
- b. that a cyclist was hit by the bus of the respondent-workman;
- c. that the cyclist had died in the accident;
- d. that the workman-respondent was driving the said bus at the relevant time;
- e. that on account of this incident, an FIR under Section 279/304A was registered against the respondent for rash and negligent driving and that he was released on bail;
- f. that Depot Manager, Wazirpur Depot, Bhoop Singh had

reached at the spot and did the enquiry and gave its report that while bicycle cyclist was taking turn, bus was also taking turn and while taking such turn, the bus took narrow space turn and that is why rider got injured.

- g. He had also mentioned in its report that the left panel of the bus had collided with the cycle, as a result of which the cyclist had fallen down and received head injuries. He had given its opinion that had the bus taken a long cut, the bicycle rider would not have come under the bus.

All these facts are undisputed facts.

24. Now, the question that arises is if in the present case, the Labour Court has erred, in the facts and circumstances of this case, in not invoking the doctrine of *res ipsa loquitur* (facts speak for themselves).

25. The question of application of doctrine of *res ipsa loquitur* has come up for consideration before the Courts in several cases. In the case of **The Managing Director, Northeast K.R.T.C. vs. Devidas Manikrao Sadananda**, AIR 2006SC3273, the offending bus had collided with the hind portion of the other bus. That other bus was running in front of the offending bus. The impact of the offending bus running into the other bus was so great that the

other bus went and dashed into a tree resulting in injuries to 56 passengers and result was death of 4 lives and on these facts, the Supreme Court has held that the Court ought to have applied the doctrine of *res ipsa loquitur* and thereby set aside the order of the Labour Court which was passed on the premise that the enquiry was not proved since no eye-witness has been examined by the Management. The maxim *Res ipsa loquitur* is squarely applicable in the instant case and once this doctrine is found to be applicable, the burden of proof shifts on the workman.

26. In *Pushpabai Parshottam Udeshi and Ors. v. Ranjit Ginning & Pressing Co. Pvt. Ltd. and Anr.* [1977]3SCR372, the Supreme Court has observed as under:-

“6. The normal rule is that it is for the plaintiff to prove negligence but as in some cases considerable hardship is caused to the plaintiff as the true cause of the accident is not known to him but is solely within the knowledge of the defendant who caused it, the plaintiff can prove the accident but cannot prove how it happened to establish negligence on the part of the defendant. This hardship is sought to be avoided by applying the principle of *res ipsa loquitur*. The general purport of the words *res ipsa loquitur* is that the accident "speaks for itself" or tells its own story. There are cases in which the accident speaks for itself so that it is sufficient for the plaintiff to prove the accident and nothing more. It will then be for the defendant to establish

that the accident happened due to some other cause than his own negligence.”

The said principle was applied by the Supreme Court in the case of **Cholan Roadways Limited** (*supra*). The facts of that case were that the driver of the bus was plying its bus between Tanjore and Nagapattinam. On 18.5.1985, the said bus while being driven by its driver met with an accident resulting in death of 7 passengers. The case of the appellant was that the bus was being driven in a rash and negligent manner. The road at the place of the accident was 300 feet wide and straight one and that the respondent allegedly despite noticing that another bus was coming from the opposite direction did not slow down the vehicle in order to avoid collision therewith and the bus was being driven at a speed of 80 k.m.p.h. The Respondent was said to have swerved suddenly to the extreme left side of the road which was lined with tamarind trees on both sides. The impact of the said collusion was so severe that the bus dashed against the protruding branches and stumps of the tamarind trees, then dashed against the bus resulting the left side of the bus completely damaged as a result whereof 7 passengers died and several persons were seriously injured. A chargesheet was issued to the workman. The Enquiry Officer found the driver guilty of misconduct and rejected the contention of the respondent that bus was driven at a slow speed and an

accident had taken place in order to save a boy who suddenly crossed the road. The driver was, thereafter, dismissed from services by the Disciplinary Authority. An industrial dispute was since pending before Industrial Tribunal, the appellant therein filed an application under Section 33(2)(b) of the ID Act for grant of approval of the said order of dismissal and the Industrial Tribunal set aside the said domestic enquiry on the ground that the passengers who had given the statements were not examined and hence the principles of natural justice were not followed by the Enquiry Officer and the approval was rejected. Applying the principle of *res ipsa loquitur*, the Court had observed as under:-

“34. This decision also has no application to the facts of the present case. In the instant case the Presiding Officer, Industrial Tribunal as also the learned Single Judge and the Division Bench of the High Court misdirected themselves in law insofar as they failed to pose unto themselves correct questions. It is now well-settled that a quasi-judicial authority must pose unto itself a correct question so as to arrive at a correct finding of fact. A wrong question posed leads to a wrong answer. In this case, furthermore, the misdirection in law committed by the Industrial Tribunal was apparent insofar as it did not apply the principle of *Res ipsa loquitur* which was relevant for the purpose of this case and, thus, failed to take into consideration a relevant factor and furthermore took into consideration an irrelevant fact not germane for determining the issue, namely, the passengers of

the bus were mandatorily required to be examined. The Industrial Tribunal further failed to apply the correct standard of proof in relation to a domestic enquiry, which is "preponderance of probability" and applied the standard of proof required for a criminal trial. A case for judicial review was, thus, clearly made out.

36. The impugned judgment, therefore, cannot be sustained and, thus, must be set aside.”

27. In the case of **Shyam Sunder and Ors. v. The State of Rajasthan** [1974]3SCR549 , the Supreme Court held that the maxim ‘*res ipsa loquitur*’ does not embody any rule of substantive law nor a rule of evidence, but is resorted to where the cause of accident is primarily within the knowledge of the driver. In that case, it was held that the fact of accident may constitute evidence of negligence. In such cases the above maxim applies. It was held that the principal function of the maxim is to prevent injustice which would result if the management is compelled to prove the precise cause of the accident.

28. In the case of **Pushpabhai Purshottam Udeshi** (*supra*), the Supreme Court has held that where the evidences show dashing of the vehicle against the tree was so violent that it caused the death of the passengers then the burden rests on the opposite party to show that the cause of the accident could not have been avoided by exercise of ordinary care and caution. The

principle, therefore, laid down in the case of **Pushpabhai Purshottam Udeshi** (*supra*) is that every road user is required to exercise the ordinary care and caution and the burden of proof is upon the delinquent to show that he had applied due care and caution while driving the vehicle and despite that it could not avoid the accident.

29. In **Cholan Roadways Limited** (*supra*), the Supreme Court has held that in certain cases, the accident speaks for itself and in such cases the management is required to prove only the factum of accident and nothing more. In such cases, it is for the driver to establish that the accident had happened due to some other cause than his own negligence. Once the maxim *res ipsa loquitur* is found applicable, the burden will be shifted on the delinquent.

30. In the present case, from the proven facts, it is apparent that the accident had occurred when both, the cyclist and the delinquent, were taking left turn towards Madipur.

31. There is no dispute to the fact that the relative speed of both the vehicles, i.e., cycle and the bus is majorly different and the cycle is being ridden at a comparatively low speed as compared to the speed of the bus. This relative speed when applied to the point where two vehicles collided,

clearly show that the cyclist was already present at the accident spot (taking left turn) when the accused reached, driving his vehicle from behind and while turning his vehicle to the left, hit the cyclist. This clearly shows that the driver of the bus while taking the left turn did not care for the cyclist who was already there taking the left turn. The principle of *res ipsa loquitur* is thus squarely applicable on the facts of this case. The burden then shifts on the workman to show that he could not have avoided the accident despite utmost care and caution. The workman has offered no explanation of accident. This goes to show that respondent/workman drove his bus at that time unmindful of the other users of the road. He thus acted in a negligent manner. Whether that negligence is sufficient to constitute criminal negligence is not the issue before me. The fact that the workman was driving his vehicle unmindful of the other road users and in the process cause accident shows that he was not performing his duties diligently. Had he been diligent while taking the turn, he ought to have been mindful of the cyclist who was already there taking the left turn and should have taken due care to avoid the accident.

32. The statement of Prem Chand, Assistant Traffic Inspector, that had the driver, i.e., the workman took a long cut, the vehicle rider/cyclist would

not have come under the bus is not merely his opinion, but is a fact which is discernible, as discussed above from the proved facts in this case.

In view of this fact, the contention of the learned counsel for the respondent-workman that no eye-witnesses had been examined and even the conductor of the bus was not examined is of no consequence. Before the Enquiry Officer, the workman has not offered any explanation to the accident. It is thus a fit case where principle of *res ipsa loquitur*, (facts speaks for itself) ought to have been applied by the Labour Court

33. The another contention of the workman-respondent that his acquittal in the criminal case under Section 279/304 IPC, shows that he was not driving the vehicle in a rash and negligent vehicle, hence has not committed any misconduct. It is submitted that he was acquitted in the criminal case for lack of eye-witness. Hence, he is entitled for reinstatement on this ground alone. Learned counsel for the petitioner has argued that the acquittal in a criminal case is of no help to the respondent because acquittal in a criminal case was on the ground of lack of evidence and benefit of doubt does not absolve workman from civil criminality. It is also argued that standard of proof in a criminal trial and standard of proof in domestic enquiry is entirely different.

34. Now, the question for consideration is if the acquittal in a criminal case is sufficient for setting aside a domestic enquiry which is otherwise valid. This law has been discussed in several cases by the Supreme Court.

35. In **Nelson Motis v. Union of India and Anr.** AIR 1992 SC 1981, the Supreme Court has held as under:-

“The nature and scope of a criminal case are very different from those of a departmental disciplinary proceeding and an order of acquittal, therefore, cannot conclude the departmental proceeding.”

36. In a subsequent case **State of Andhra Pradesh v. K. Allabaksh** : (2000) 10 SCC 177, the Supreme Court has observed as under:

“That acquittal of the Respondent shall not be construed as a clear exoneration of the Respondent, for the allegations call for departmental proceedings, if not already initiated, against him.”

37. The Three-Judge Bench of the Supreme Court in a subsequent case **Ajit Kumar Nag v. General Manager (PJ) Indian Oil Corporation Ltd.** :

(2005) 7 SCC 764 has propounded the law as under:-

“In our judgment, the law is fairly well settled. Acquittal by a criminal Court would not debar an employer from exercising power in accordance with the Rules and Regulations in force. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. Whereas the object

of criminal trial is to inflict appropriate punishment on the offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused "beyond reasonable doubt", he cannot be convicted by a Court of law. In a departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of "preponderance of probability."

From the above proposition of law, it is apparent that the acquittal in a criminal case cannot be a ground for setting aside a domestic enquiry which is otherwise valid. This contention of the respondent, therefore, has no merit.

38. The finding of the Labour Court in both the writ petitions that the enquiry is vitiated is not sustainable. The orders of Tribunal clearly suffer with an error which is quite apparent as the orders are not based on correct interpretation of law.

39. The matter is very old. The dismissal order is dated 07.04.1992. I am

of opinion that remitting the matter for fresh consideration to the Labour Court for fresh decision, on applying the principles of *res ipsa loquitur*, would only amount to multiplication of litigation, which would put financial burden on the parties. On application of principle of *res ipsa loquitur*, the misconduct stands proved and thus the findings of the Enquiry Officer was not vitiated or perverse, the enquiry was valid. Hence, the termination of Prem Singh-Respondent, pursuant to a valid departmental enquiry is legal

40. I hereby vide this order set aside the orders of the Tribunal dated 13.01.2000, 01.06.2000 challenged in W.P.(C) No.6603/2001 and 24.01.2003, in W.P.(C) No.4071/2004.

Both the writ petitions are allowed with no order as to costs.

**DEEPA SHARMA
(JUDGE)**

FEBRUARY 09, 2015
BG