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

+ W.P.(C) 1317/2017 & CM No.6013/2017

BHARTI AIRTEL SERVICES LIMITED

..... Petitioner

Through: Mr. Jitesh Pandey & Ms. Jaya Sahi,
Advocates

versus

ASHOK KUMAR

..... Respondent

Through: Mr. Jay Bansal, Advocate

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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22.11.2017

The petitioner has filed the present writ petition under Articles 226 and 227 of the Constitution of India praying, *inter alia*, for issuance of writ, orders or directions in the nature of *certiorari* or any other writ or direction against the impugned order dated 16.1.2017 passed by the Presiding Officer, CGIT-cum-Labour Court-II, New Delhi in ID No.8/2016.

Learned counsel for the petitioner submits that the proposed issue on behalf of the petitioner Management before the Industrial Tribunal reads thus:

“1. Whether the enquiry conducted by Management against the Claimant was not just, fair, proper and according to the principles of natural justice? OPW”

Learned counsel for the petitioner further submits that the respondent workman has also raised a similar issue, which reads thus:

- “1. Whether the enquiry conducted by Management is not fair and proper? OPW
2. Whether the order of dismissal dated 26.5.2014 is unjust and illegal? OPW”

Learned counsel for the petitioner submits that the reasons stated in the impugned order dated 16.1.2017 are untenable in law. It is mandatory under the law to frame an issue, whether the inquiry conducted by the management is unfair or improper and the onus of the same ought to have been on the workman. Learned counsel for the petitioner also submits that in both the proposed issues, similar issues were raised by both the parties. Accordingly, in view of the law in this regard and the fact that admittedly an inquiry was conducted in this matter, holding the workman guilty of the alleged misconduct, an issue in this regard is required to be framed. Hence, the same is ordered to be framed. Accordingly, the order dated 16.1.2017 is set aside and the parties are directed to appear before the Industrial Tribunal on 15.12.2017 for framing of the additional issue regarding inquiry as proposed by both the parties and proceed further in accordance with law.

The writ petition is disposed of. CM No.6013/2017 also stands disposed of.

CHANDER SHEKHAR, J

NOVEMBER 22, 2017

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