

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

Date of Decision: October 13, 2017

+ **LPA 655/2017 & CMs 36478-36483/2017**

DELHI TRANSPORT CORPORATION Appellant
Through: Ms. Aditi Gupta, Advocate

versus

VIJAY KUMAR Respondent
Through: None

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

S. RAVINDRA BHAT, J. (OPEN COURT)

1. The appellant is aggrieved by the judgment of learned Single Judge which affirms the Award under Section 33C (2) of *The Industrial Disputes Act, 1947*. The respondent-workman complained of denial of lawful wages, which had accrued to him for a one year period from September, 2012.

2. In the proceedings before the Labour Court, the parties have led evidence. The workman—initially engaged in 1986 as a Conductor with the appellant i.e. DTC, produced several documents including letters written to the Management from September, 2012 repeatedly asking it to take him back into employment or pay him wages. Apparently in 2008, the workman had complained of some eye problem but was allowed to rejoin in 2009 and he worked for three years. He was not given work in

September, 2012. On an appreciation of all the circumstances, the Labour Court held workman entitled to ₹2,98,828/- as back wages for the period claimed in the application. The Management of the DTC challenged the Award primarily contending that the workman had not produced the disability certificate despite repeatedly being asked to do so. Learned Single Judge however declined the submission and affirmed the Award.

3. In the appeal, learned counsel highlights that once the workman had complained of a disability, the question of his being permitted to rejoin did not arise till he satisfied the organization about his physical and medical fitness to discharge responsibilities attached to his post. It was contended that the workman had suppressed certain facts relating to his disability and was thus successful in securing a favourable Award.

4. This Court is of the opinion that the findings of the Labour Court are reasonable. Concededly, the workman had complained of some eye problem and there was break in his employment for a period of one year. Thereafter, for the period 2009-12, he worked in DTC though not as a Conductor. In these circumstances, when he reported in September, 2012 again for his duty, he was not given any work. His repeated representations went unheeded. In the meanwhile, DTC insisted to produce the disability certificate—completely negating its own decision for three years of having accepted him and given him employment—though in a different capacity.

5. Having regard to all these facts, the Labour court in our opinion correctly appreciated circumstances and held that the workman was denied wages unjustifiedly. The conclusion of the learned Single Judge is also to the same effect. We, therefore, see no merit to interfere with the

impugned order. Hence, the appeal and the application are dismissed.

S. RAVINDRA BHAT
(JUDGE)

SUNIL GAUR
(JUDGE)

OCTOBER 13, 2017

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