

\$~3

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

+ **LPA 162/2018 and CM. APPL. 12177/2018**

MAHESH CHAND

..... Appellant

Through: Mr. H. K. Chaturvedi and Mr. Sagar
Chaturvedi, Advocates

versus

DELHI TRANSPORT CORPORATION

..... Respondent

Through: Mr. Aldanish Rein and Ms.
Maheravish Rein, Advocates

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

%

26.10.2018

CM. APPL. 12177/2018

1. For the reasons stated therein, the delay is condoned. The application is allowed.

LPA 162/2018

2. This appeal is directed against the order dated 15th January, 2013 in W.P. (C) 47/2009 and the order dated 12th January, 2018 in Review Petition 395/2017, passed by the learned Single Judge dismissing both petitions.

3. The challenge in the writ petition was to the Award dated 27th March, 2008 passed by the Labour Court holding that the inquiry that had resulted in the termination of the Appellant from service was not illegal or

unjustified.

4. The Appellant was employed as a Sweeper in the respondent organization. He was charge sheeted for his absence from duty between 1st and 15th August, 1994. Earlier he was absent for 117 days in 1993 and 73 days in 1994. The penalty on those occasions imposed was stoppage of four increments and denial of pay for the period of absence concerned.

5. As far as the absence between 1st and 15th August, 1994, the case of the Appellant that he was down with typhoid during that period. What is significant to note is that till 15 August, 1994 no prior intimation was sent by the Appellant to the organization about his illness. It was only after he was issued a notice dated 10 August, 1994 asking him to report for duty, that the Appellant reported on 16th August, 1994. There is nothing to indicate, as is being urged by Mr. Chaturvedi that the medical certificates produced by the Appellant were not considered by the Inquiry Officer (IO). In fact even the learned Single Judge has in para 7 of the impugned order dated 15th January, 2013 noted that the IO did consider the medical certificates produced by the Appellant.

6. It is another matter that Appellant filed a review petition before the learned Single Judge 1633 days after the dismissal of his writ petition. The only ground urged in the review petition was that the Appellant was not aware of the fact that he had being removed by the DTC without approval. The ground in the review petition was not that the medical certificates produced by the Appellant had not been considered by the IO before passing

the order of termination of his service.

7. Having heard Mr. Chaturvedi, learned counsel for the Appellant, and having perused the record, this Court is unable to find any legal error in either of the impugned orders passed by the learned Single Judge.

8. The appeal is dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

OCTOBER 26, 2018

gb