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

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+ **LPA 485/2018**

DELHI TRANSPORT CORPORATION & ANR. Appellants

Through: Ms Avnish Ahlawat, Advocate.

versus

BIJENDER SINGH Respondent

Through: Mr Shankar Raju and Mr Nilansh Gaur, Advocates.

+ **LPA 490/2018**

DELHI TRANSPORT CORPORATION & ANR. Appellants

Through: Ms Avnish Ahlawat, Advocate.

versus

BIJENDER SINGH Respondent

Through: Mr Shankar Raju and Mr Nilansh Gaur, Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **07.01.2019**

CM 34663/2018 (delay) in LPA 485/2018

CM 34755/2018 (delay) in LPA 490/2018

1. For the reasons explained in the applications, the delay in filing the appeals is condoned and the applications are allowed.

LPA 485/2018 & CM 34662/2018 (stay)

LPA 490/2018 & CM 34754/2018 (stay)

2. These are two appeals filed by the Delhi Transport Corporation ('DTC') against the common judgment dated 7th May, 2018 passed by the learned

Single Judge in W.P.(C) No. 17931/2004 titled (*DTC v Bijender Singh*) and W.P.(C) No. 20084/2004 titled (*Bijender Singh v DTC*).

3.The two writ petitions i.e. one by the DTC and the other by the Respondent – workman came to be filed as a result of the orders of the Industrial Tribunal (‘Tribunal’) passed on 19th December, 2003 in an application filed by the DTC under Section 33 (2) (b) of the Industrial Disputes Act, 1947 (‘Act’). The occasion for the workman to go before the learned Single Judge was by way of seeking implementation of the order of the Tribunal in his favour directing his reinstatement with full back-wages with consequential benefits to be paid to him by the DTC.

4. The facts in brief in the present appeals are that while the workman was on duty as a conductor on a bus on 31st December, 1989 between Ajmer and Delhi, it was alleged that he had failed to issue tickets to two employees of Haryana Roadways. It appears that a Regional Manager (Technical) in the DTC, who was also travelling in the same bus, objected to this failure to issue tickets, resulting in the workman allegedly abusing him, misbehaving and using unparliamentarily language.

5. In the initial round before the Tribunal, where the validity of the enquiry report dated 13th February, 1990 of the DTC, affirming the guilt of the workman was under examination, the Tribunal held that the enquiry held was not legal and valid as it was in violation of the principles of natural justice. This order became final since DTC did not challenge it.

6. Then the DTC applied to the Tribunal for permission to establish, on

merits, the factum of misconduct committed by the workman. The elaborate evidence was permitted to be led by the DTC to prove the workman's misconduct. After analysing the evidence, the Tribunal again agreed with the workman and held that the DTC failed to establish the misconduct of the workman. This was done by an order dated 19th December, 2003, which was then challenged by the DTC.

7. While the Tribunal directed the reinstatement of the workman, the learned Single Judge has, after analysing the entire evidence *de novo*, come to a conclusion that although the workman was entitled to reinstatement with full back-wages, since he had less than a year to be superannuated, the ends of justice would be met if the relief was one of payment of full back-wages, without reinstatement. The workman has not come before this Court to challenge this part of the impugned judgment.

8. This Court has heard both the submissions of Ms Avnish Ahlawat, learned counsel appearing for the DTC and Mr Shankar Raju, learned counsel appearing for the workman. The Court has also perused the entire evidence as well as the impugned order of the learned Single Judge.

9. The Court is unable to find any ground to interfere with the clear findings recorded by the learned Single Judge that the DTC miserably failed to prove the misconduct of the workman. This is apart from the finding of the learned Single Judge, with which this Court concurs, that the finding of the Tribunal that the enquiry itself was illegal and invalid did not call for any interference.

10. There is no merit in these appeals and the same are accordingly dismissed, but in the circumstances, with no orders as to costs. The pending applications are also dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 07, 2019

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