

\$~

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

%

Reserved on: 17.03.2023
Pronounced on: 18.04.2023

+ **W.P.(C) 8058/2010**

DTC

..... Petitioner

Through: Mr. Sarfaraz Khan, Advocate.

versus

BALESHWAR

..... Respondent

Through: Ms. Rashmi B. Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE GAURANG KANTH

J U D G M E N T

GAURANG KANTH, J.

1. The present petition emanates from the award dated 31.03.2010 ("*impugned award*") passed by the Learned Presiding officer, Industrial tribunal-II, Karkardooma Courts, Delhi in I.D. No. 18/02.
2. *Vide* the impugned award, the learned Labour Court was pleased to adjudicate the industrial dispute in favour of the Respondent/Workman and directed reinstatement of the Respondent/Workman with continuity of service. Learned Labour Court, further, directed the Petitioner/Management to pay the Respondent/Workman 40% of the back wages.

FACTS RELEVANT FOR THE ADJUDICATION OF THE PRESENT WRIT PETITION

3. Respondent/Workman was working as a conductor with the Petitioner/Management. On 05.08.1992, while the Respondent/Workman was
- W.P.(C) 8058/2010**

Page 1 of 18

performing his duty as a conductor in bus no. 6097, Route No. Faridabad Sector 7 to Delhi, the checking staff of the Petitioner/Management intercepted the said bus. During the said inspection, a passenger was found to be travelling without ticket. The checking staff found that the Respondent/Workman failed to issue ticket to the said passenger even after collecting the ticket fare of Rs.2/- from him. The checking staff recorded the statement of the passenger behind the challan and seized the unpunched tickets from the Respondent/Workman.

4. In pursuance of the report of Sh. Ram Kishan ATI, a Charge sheet dated 26.08.1992 was issued to the Respondent/Workman by the Depot Manager. The said charge sheet has been reproduced herein below:

“You are required to explain, why a disciplinary action should not be taken against you under the provision of Delhi Road Transport Corporation (Amended) Act, 1971, read with Section 15 (2) of Delhi Transport Corporation (Conditions of Appointment and Service Rule 1952 for the following irregularities).

“On 05-08-1992 you were performing your duty on Bus No. 6097 of Route No. Faridabad Sector 7 to Delhi, checking staff check the said Bus at 21.45 hours at Faridabad Adda and found that a passenger was travelling in your bus from Faridabad Sector 7 to Faridabad Adda without ticket. You did not issue the ticket after the collecting the due fare Rs. 2/- from the passenger.”

This shows your dishonesty in dealing with the corporation business and misappropriation of the revenue. Thus, your above mentioned action tantamount to misconduct within the meaning of para 19 (b)(h)&(m) .of the standing order governing the conduct of the DTC employees. One copy of the report on which the charge sheet is attached herewith. One copy of your past record is also

annexed herewith and your past record will be considered while passing the final order in the case.

If you desire to hear in person a request to that effect be made in your explanation. Your explanation should reach the undersigned within 10 days of the receipt of this charge sheet by you. In case you want to inspect any of the relevant documents of reliance available on record, you should report to the undersigned within 24 hours of the receipt of this charge sheet by you.

In the event of failure on your part to report to the undersigned inspection of documents within 24 hours and therefore, your explanation to the charge sheet within 10 days, it will be assumed that you have no explanation, to submit in response to this charge sheet and further action in the case pending against you will be taken in accordance with the regulation without any further reference to you.”

5. The enquiry proceeding against the Respondent/workman was commenced on 16.02.1993 before the Enquiry officer. Statement of Sh. Ram Krishan/ATI, Sh. Rajbir Singh/TI, Sh. Sukh Lal/TI and Sh. Ramesh Chand, ATI, were recorded which was followed by the cross-examination of the said individuals by the Respondent/Workman. Statement of Sh. Vijay Pal, the passenger was recorded who was crossed-examined by the Respondent/Workman and the Enquiry Officer.
6. The Respondent/Workman filed his final defence statement on 16.04.1993 wherein he prayed for exoneration from all the charges levelled against him.
7. The Enquiry officer conducted a detailed enquiry and submitted enquiry report dated 22.04.1993, opining that the charges levelled against the Respondent/Workman are found to be true and established.

Based on the said enquiry report, the Depot Manager, being the Disciplinary Authority of the Respondent/Workman, passed an order dated 22.07.1993 wherein the Respondent/Workman was removed from service with effect from 22.07.1993.

8. The Petitioner/Management filed an application under Section 33(2)(b) of the Industrial Disputes Act, 1947 (*“the I.D. Act”*) seeking the approval of the learned Industrial Tribunal for removing the Respondent/Workman from the service. Learned Labour Court vide orders dated 06.09.2002 & 24.03.2003 rejected the said approval application filed by the Petitioner/Management. The Petitioner/Management preferred a writ petition W.P.(C) No.5757/2003 titled as *DTC Vs Baleshwar* against the orders dated 06.09.2002 and 24.03.2003 passed by the learned Labour Court. This Court *vide* order dated 09.11.2006 set aside the orders dated 06.09.2002 and 24.03.2003 passed by the learned Labour Court and allowed the approval application filed by the Petitioner/Management under Section 33(2)(b) of the I.D. Act. The Respondent/Workman challenged the said order dated 09.11.2006 before the Division bench of this Court in LPA 339/2008. The Hon’ble Division Bench, vide order dated 08.09.2008, dismissed the said Appeal.
9. In the meanwhile, the Petitioner/Management removed the Respondent/Workman from service vide order dated 22.07.1993. The Respondent/Workman aggrieved by the said termination, initiated an Industrial dispute which was later referred by the appropriate government to the Labour Court for adjudication. The appropriate government framed the terms of reference under Section 10(1)(d) and

12(5) of the I.D. Act. The term of reference as framed by the appropriate government has been reproduced as below:

“Whether the punishment imposed upon Sh. Baleshwar S/o Sh. Biru by the management vide their orders dated 22.07.1993 is illegal and / or unjustified and, if so, to what sum of money as monetary relief along with consequential benefits in terms of existing laws / Govt. Notifications and to what other relief is he entitled and what directions are necessary in this respect”?

10. The Respondent/Workman filed statement of claim before the learned Labour Court contending that the Petitioner/Management failed to conduct the enquiry proceedings in accordance with law. He was not allowed to take the help of a defense assistant. Further he was not supplied with the necessary documents along with the charge sheet. Hence the enquiry conducted by the Petitioner/Management was not in compliance with the principles of natural justice. The Respondent/Workman further contended that the passenger concerned (Sh. Vijay Pal S/o Sh. Bunna Pal), appeared before the enquiry officer as a witness. However, he did not support the case of the Petitioner/Management. The Petitioner/Management failed to prove the allegation of misconduct against the Respondent/Workman and hence the disciplinary authority ought not to have removed him from service. The Petitioner/Management filed a detailed written statement justifying the termination order. It was asserted by the Petitioner/Management that they conducted the enquiry in accordance with law. It was proved on record that the Respondent/Workman failed to issue ticket to a passenger after accepting the fair of Rs. 2/-. The Disciplinary Authority examined the matter in detail and based on the evidence inflicted the penalty of ‘removal from service’. Since the

enquiry conducted by the Petitioner/Management was in accordance with law, no judicial interference is called for.

11. On basis of the pleadings, the learned Labour Court framed the following issues for adjudication:

“(1) whether the removal of workman is without holding any legal and proper inquiry?

(2) If issue no 1 is decided in favour of the workman whether the workman has committed misconduct as alleged by the Management? OPM

(3) Whether the punishment imposed by the Management on the workman vide order dated 22.7.1993 is illegal and unjustified? OPW.

(4) Terms of reference.”

12. In order to prove their respective case, the Respondent/Workman has filed his affidavit as **Ex. WW1**, whereas on behalf of Petitioner/Management, affidavit of Sh. V.K. Palta has been filed who has been examined as MW1.

13. Initially vide Award dated 16.04.2008, the learned Labour Court decided the reference in favour of the Petitioner/Management. The relevant portion of the said Award, reads, inter alia, as follows:

“As mentioned above, our own Hon'ble High Court vide orders dated 09.11.2006 in W.P. (C) No. 5757/02 has upheld the enquiry conducted by the management against the workman which was subject matter of an approval application under Section 33 (2)(b) of the Industrial Disputes Act, 1947. Therefore, the said order operates as res judicata and cannot be re-adjudicated in these proceedings. Accordingly, the issue is decided in favour of the management and against the workman.”

14. The Respondent/Workman challenged the said Award before this Court in W.P(C) No. 879/2009. This Court vide order dated 20.01.2010, set aside the award dated 16.04.2008 and remanded back

W.P.(C) 8058/2010

Page 6 of 18

the matter for fresh adjudication. The order dated 20.01.2010, reads, inter alia, as follows:

“The said concluding para of the order would clearly show that the tribunal after placing reliance on the judgment in the case of DTC Vs. Surender Pal came to the conclusion that after the findings given on Approval application U/s 33 (2) (b) I.D. Act the matter cannot be re-adjudicated on a reference under Section 10 and the same would operate as res judicata. Similarly in the final order also issue No.2 with regard to the misconduct of the petitioner was decided based on the order dated 16.04.2008 on issue No. 1. So far the findings on issue No.4 are concerned, the same would become inconsequential in view of there being no decision on issues Nos. 1 and 2. Taking into consideration the aforesaid legal position and the view of the Division Bench in the case of Baleshwar Vs. DTC the matter is remanded back to the Industrial Tribunal for fresh adjudication on its merits on the reference as well as on the issues already framed by the court. Parties are directed to appear before the Tribunal on 01.02.2010.”

15. Learned Labour Court examined the documents and evidences led by the parties and vide order dated 27.03.2010, decided the issue no.1 i.e. the validity of the enquiry, against the Petitioner/Management. It was held that the enquiry conducted against the Respondent/Workman was not proper and just and was therefore set aside. Thereafter, Petitioner/Management was given opportunity to adduce evidence to prove the alleged misconduct. The Petitioner/Management made a statement before the learned Labour Court to the effect that they do not wish to lead any additional evidence on the point of misconduct and whatever evidence is on record which was led during the course of enquiry may be taken into consideration. In view of the statement made by the Petitioner/Management, the Respondent/ Workman also

stated that he also does not wish to lead any additional evidence on the point of misconduct.

16. Hence, based on the earlier evidence, the learned Labour Court examined aspect of misconduct and vide impugned Award dated 31.03.2010, the learned Labour Court observed that the Petitioner/Management failed to prove the misconduct on part of the Respondent/Workman and the punishment imposed upon him is unjustified and illegal. In accordance with the observation made, the learned Labour Court held that the Respondent/Workman is entitled to the reinstatement with continuity in service along with 40% of the back wages.
17. Aggrieved by the impugned award, the Petitioner/Management has preferred the present writ petition by way of which it has been prayed that the impugned award dated 31.03.2010 be set aside.
18. This court *vide* its order dated 01.12.2010, stayed the operation of the impugned award dated 31.03.2020. Further, *vide* order dated 22.02.2012, this Court approved the application filed under Section 17-B of the I.D. Act and directed the Petitioner/Management to pay the Respondent/Workman his last drawn wages or the minimum wages, whichever is higher, from the date of passing the impugned award.

SUBMISSIONS MADE ON BEHALF OF THE PETITIONER/ CORPORATION

19. Mr. Sarfaraz Khan, learned counsel appearing on behalf of the Petitioner/Management has submitted that the learned Labour Court erred in interfering with the punishment imposed by the Petitioner/Management in view of the settled law that the scope of *W.P.(C) 8058/2010*

interference of a Court is minimal. Such an interference is warranted only in case of irrationality and procedural impropriety. However, in the present case, the decision of the enquiry officer was taken after proper examination of the facts and compliance of procedural obligations.

20.It is submitted by learned counsel that the act of the Respondent/Workman of not issuing ticket to the passenger after collection of fare, amounts to gross misconduct. The Respondent/Workman was acting in a fiduciary capacity and he was responsible for observing financial propriety while performing his duties. It is submitted that the learned Labour Court failed to consider the judgment delivered in *Karnataka SRTC v. B.S. Hullikatti*, reported as (2001) 2 SCC 574, while observing that the quantum of punishment imposed upon the Respondent/workman is unjustified. Respondent/Workman was involved in fraud and misappropriation of the public money leading to the breach of trust. The enquiry officer after conducting proper enquiry imposed the punishment upon Respondent/Workman, therefore the quantum of punishment is justified as well as lawful in the eyes of law.

21.It is further averred that the punishment was imposed after taking into consideration the past record of the Respondent/Workman. Respondent/Workman had earlier as well indulged himself in the acts of dishonesty. Therefore, the Enquiry Officer took a holistic view of the conduct of the Respondent/Workman.

22.The argument of the Respondent/Workman that the checking staff concocted the entire episode against him and falsely charged him, is

unsustainable and holds no force. The Respondent/Workman failed to bring on record any evidence to show that there exists personal vendetta on behalf of the checking staff against him. In the absence of any evidence to establish grudges, such allegations on the checking staff are wrong and liable to be ignored.

23. With these submissions, learned counsel for the Petitioner/Management prayed for the setting aside of the impugned Award.

SUBMISSIONS MADE ON BEHALF OF THE RESPONDENT/WORKMAN

24. Ms. Rashmi B. Singh learned counsel appearing for the Respondent/Workman vehemently opposed the present petition and submitted that there exists no perversity in the impugned award for it to be challenged.

25. Learned counsel submitted that the Petitioner/Management refused to lead any evidence before the learned Labour Court and hence failed miserably to establish the misconduct on part of the Respondent/Workman. It is further submitted that the Authorized Representative (AR) of the Petitioner/Management himself refused to lead any evidence before the learned Labour Court, and hence in absence of any evidence, charges against Respondent is unsustainable.

26. Moreover, the testimony of the ticketless passenger, Sh. Vijay Pal is sufficient to exonerate the Respondent/Workman from all the false charges leveled against him. The passenger has testified that the Respondent/Workman was about to issue the ticket to him when the checking staff intercepted the bus and snatched away the ticket. Another checking staff forcefully obtained the thumb impression of the

passenger. It is further submitted that since cash was not checked by the checking staff, the allegation of causing financial loss to the Petitioner/Management remains unproved. In such a case, the charges levelled against the Respondent/Workman are not established and the punishment of termination is unfounded and without any basis.

27. Learned counsel also highlighted that the Respondent/Workman has an unblemished past record and had never indulged into any act of dishonesty and fraud.

28. With these submissions, learned counsel for the Respondent prays for the dismissal of the present Writ Petition.

LEGAL ANALYSIS

29. This Court has heard the rival contentions of the parties and have perused the relevant material brought on record with the assistance of the learned counsels.

30. Before advertng to the facts of the present case, this Court deems it appropriate to reiterate the difference in jurisdiction of Labour Court and this Court while examining the validity of disciplinary proceedings conducted by the Petitioner/Management. The Hon'ble Supreme Court in *Workman of M/s Firestone Tyre & Rubber Co of India Ltd Vs Management & Ors* reported as *1973 (1) SCC 813* examined the impact of the introduction of Section 11 A to the I.D. Act. After examining the issue in detail, the Hon'ble Supreme Court held as follows:

“40. Therefore, it will-be seen that both in respect of cases where a domestic enquiry has been held as also in cases where the Tribunal considers the matter on the evidence adduced before it for the first time, the satisfaction under section 11 A,

about the guilt or otherwise of the workman concerned, is that of the Tribunal. It has to consider the evidence and come to a conclusion one way or other. Even in cases where an enquiry has been held by an employer and a finding of misconduct arrived at, the Tribunal can now differ from that finding in a proper case and hold that no misconduct is proved.

41. *We are not inclined to accept the contentions advanced on behalf of the employers that the stage for interference under section 11 A by the Tribunal is reached only when it has to consider the punishment after having accepted the finding of guilt recorded by an employer. It has to be remembered that a Tribunal may 'hold that the punishment is not justified because the misconduct alleged and found proved is such that it does not warrant dismissal or discharge. The Tribunal may also hold that the order of discharge or dismissal is not justified because the alleged misconduct itself is not established by the evidence. To come to a conclusion either way, the Tribunal will have to reappraise the evidence for itself. Ultimately it may hold that the misconduct itself is not proved or that the misconduct proved does not warrant the punishment of dismissal or discharge. That is why, according to us, section 11A now gives full power to the Tribunal to go into the evidence and satisfy-itself on both these points. Now the jurisdiction of the Tribunal to reappraise the evidence and come to its conclusion ensures to it when it has to adjudicate upon the dispute referred to it in which an employer relies on the findings recorded by him in a domestic enquiry. Such a power to appreciate the evidence and come to its own conclusion about the guilt or otherwise was always recognised in a Tribunal when it was deciding a dispute on the basis of evidence adduced before it for the first time. Both categories are now put on a par by section 11 A.*

- 41A. *Another change, that has been effected by section 11A is the power conferred on a Tribunal to, alter the punishment imposed by an employer. If the Tribunal comes to the conclusion that the misconduct is established, either by the domestic enquiry accented by it or by the evidence adduced before it for the first time, the Tribunal originally had no power to interfere with the punishment imposed by the management. Once the misconduct is proved, the Tribunal had to sustain the order of punishment unless it was harsh indicating victimisation. Under section 11A, though the*

.Tribunal may hold that the misconduct is proved, nevertheless it may be of the opinion that the order of discharge or dismissal for the said misconduct is not justified. In other words, the Tribunal may hold that the proved misconduct does not merit punishment by way of discharge or dismissal. It can, under such circumstances, award to the workman any lesser punishment instead. The power to interfere with the punishment and alter the same has been now conferred on the Tribunal by section 11 A.

31.Hence while exercising power under Section 11 A of the I.D. Act, the satisfaction of the Labour Court regarding the alleged misconduct is important and the Labour Court can re-appreciate the evidence and substitute its own views. However, the jurisdiction of this Court under Article 226 is very limited while examining the Award passed by the learned Industrial Tribunal. This Court while exercising powers under writ jurisdiction cannot interfere with the factual findings of the Labour Court which are based on the appreciation of facts based on evidence adduced before it (***Amrit Vanaspati Company Limited Vs Khem Chand & Anr*** reported as **2006 (6) SCC 325**). This Court can interfere with the findings of the learned Labour Court only on limited circumstances, like violation of principles of natural justice, perversity of findings etc.

32.In view of the above-mentioned settled position of law, this Court now proceed to examine the facts of the present case. In the present case, the learned Labour Court after hearing both the sides adjudicated the dispute in favour of the Respondent/Workman. The relevant extract of the judgment has been reproduced herein below:

“11. I have perused statement of the passenger taken by the checking squad. There are 10 lines in the purported statement of the passenger. His thumb impression has been obtained at the lower end of the paper. Sufficient blank space has been left out

W.P.(C) 8058/2010

Page 13 of 18

between purported statement of the passenger and his thumb impression. Similarly signatures of the workman have been obtained just near thumb impression of the passenger Vijay Pal. Prima facie it appears that signatures of the workman as well as thumb impression of the passenger were obtained on blank papers and subsequently it was converted into statement of the passenger. Otherwise, there would not have been abnormal blank space between thumb impression of the passenger and the point his purported statement ended. In my opinion, statement of the checking members can, not be relied upon inasmuch as record prepared by the checking staff is full of suspicion. Circumstances brought on record clearly makes strong suspicion about veracity of the case of the Management that workman had not issued ticket to the passenger. On the other hand, passenger has not supported story of the Management, He is specific that workman was new and he was verifying the fare from list of fare before issuing ticket. He has also stated that workman had issued ticket to him in the meantime checking staff snatched ticket from his hand and obtained his signatures on blank papers. In these circumstances, I am of the view that evidence brought on record is not sufficient to warrant conclusion that workman is guilty of any misconduct, in other word. Management has failed to prove misconduct on the part of the workman."

33. Learned Labour Court was of the view that the checking staff indulged themselves in highhandedness while inspecting the bus and recording the statements. The checking staff not only, without any justification, obtained thumb impression of passenger, who was an educated individual, but also physically intimidated him to affix the same on a blank paper. It is also observed by the learned Labour Court that the thumb impression of the passenger was affixed by the checking staff on the lower end of the paper. It is, therefore, *prima facie*, apparent that abnormal space was deliberately left by the checking staff to convert it into the statement of the passenger. The

learned Labour Court reached the conclusion that the case of the Petitioner/Management is not proved and there exists suspicion regarding veracity of the records brought on record by them.

- 34.The checking staff took cognizance of the alleged irregularity after confronting the ticketless passenger. The challan and subsequently the chargesheet against the Respondent/Workman was also filed based on the statement of the passenger. Therefore, the statement of the passenger is crucial in the present case which was recorded at the time of enquiry. The statement of the passenger, Sh. Vijay Pal has been reproduced herein below:

“On 05-08-1992, I boarded from YMC. Ahead before Nilam Cinema flying People Came. I had given money to conductor and that conductor was new and do not know what is the fare. From his own list he was looking the fare. After looking the list the 'conductor was giving me ticket in between one of them caught my hand and snatch the ticket and other one caught my collar. Those tickets were with conductor also taken by them. I was asked to put my thumb impression on blank paper and I used to signature. In between my stand came and I was dropped at Old Faridabad after taking y address. Apart from this I have nothing to say.”

- 35.At the time of enquiry, the passenger categorically deposed that the checking staff used aggression while inspecting the bus and the thumb impression was also obtained forcefully. With such statement, the passenger demolished the averments of the Petitioner/Management, which shows that the story was concocted by the checking staff to falsely charge the Respondent/Workman with misconduct. Hence, to this Court's understanding, the records produced by the Petitioner/Management cannot be made basis for holding the Respondent/Workman guilty of misconduct. Furthermore, while

perusing the Labour Court Record (LCR), this Court came across a letter dated 07.08.1992, written by the Respondent/Workman addressing the Petitioner/Management. In aforesaid letter, the Respondent/Workman expressed his grievance to the Petitioner/Management with respect to the frivolous chargesheet filed against him by the checking staff. It is also written that the checking staff misbehaved with him while he was issuing ticket to the passenger and involuntarily obtained thumb impression of passenger. Hence, in the present case, where the passenger who happens to be the star witness of the Petitioner/Management has deposed against the Petitioner/Management, the Petitioner/Management is left with no evidence apart from that of checking staff to prove misconduct on part of the Respondent/Workman.

36.As observed by the learned Labour Court, the statement of the ticketless passenger, Sh. Vijay Pal, was recorded by the checking staff with his thumb impression at the bottom. During the enquiry proceeding, the passenger stated that he used to sign which implies that he was an educated person. No justification was furnished by the checking staff as to why instead of asking for passenger's signature, they choose to obtain thumb impression. The enquiry officer attempted to brush under the carpet the testimony of the Passenger, which was an important piece of evidence to enquire into the charges levelled against Respondent/Workman.

37.The checking teams of the Petitioner/Management neither tally the cash with the unpunched tickets, nor the passenger supported the case of the Petitioner/Management in his deposition. There is no

independent evidence to corroborate the testimony of the checking staff about alleged misconduct of the Respondent/Workman. This Court in *Savitri Devi v. Delhi Transport Corporation*, reported as **2011 SCC OnLine Del 3507** has discussed briefly about importance of checking cash by the checking staff. Relevant extract of the judgment is reproduced below for perusal.

“14. ...The Tribunal appears to have overlooked that in a majority of the cases where the charges are that after collecting cash from the passengers the conductor has not issued them tickets, the checking of the cash with the conductor is absolutely essential to determine if the passengers who were allegedly travelling without tickets were telling the truth...”

38. Therefore, weighing both the sides, the averments made by the Petitioner/Management stands on a weaker pedestal as no substantive proof exists to establish guilt of the Respondent/Workman. As far as the legality of the above-mentioned impugned award is concerned, the Petitioner/Management failed to point out the perversity in the impugned award.

39. **B.S. Hullikatti** (Supra), as relied upon by the counsel for Petitioner/Management, lends no assistance to the case of the Petitioner/Management. It was proved in the aforesaid case that the conductor of the bus charged 50 paise more from as many as 35 passengers and he was found guilty previously 36 times on different dates. However, in present case, statement of checking staff member simpliciter is not sufficient to hold the Respondent/Workman guilty of misconduct, and the guilt remains unestablished.

40. The learned Labour Court, on basis of the evidence led during the enquiry, appreciated the facts and circumstances to reach the
W.P.(C) 8058/2010

Page 17 of 18

conclusion. This Court is of the opinion that the learned Labour Court committed no irregularity or violation of principles of natural justice while adjudicating the dispute and passed the impugned award considering the facts and law. It is a well settled law that the court under Article 226 of the Constitution of India does not sit as a Court of appeal, but rather has a limited role while examining the industrial award. It can only invoke its power under writ jurisdiction when there exists perversity on the face of the award and award is without any reasoning, logic and passed without compliance of principles of natural justice. This Court finds no perversity in the impugned award. In light of the law, this Court is not inclined to invoke its power under Article 226 of the Constitution of India and interfere with the award dated 31.03.2010 passed by the Learned Labour Court.

41. Accordingly, the award dated 31.03.2010 passed by the Learned Presiding officer, Industrial Tribunal-II, Karkardooma Courts, Delhi in I.D. no. 18/02 is upheld.

42. In compliance of the order of this Court dated 22.02.2012, the Respondent/Workman is getting payment under Section 17-B of the I.D Act. The Petitioner/Management is entitled to adjust the payment made under Section 17-B of the ID Act while calculating the back wages of the Respondent/Workman.

43. In view of the above, the present petition is dismissed. No order as to costs.

GAURANG KANTH, J.

APRIL 18, 2023

SD

W.P.(C) 8058/2010

Page 18 of 18