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

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Reserved on: 23.08.2023

Decided on: 25.08.2023

+ **W.P.(C) 11207/2015 & CM APPL 29161/2015**

M/S DELHI TRANSPORT CORPORATION Petitioner

Through: Mr. Sarfaraz Khan, Advocate

versus

RAMANAND

..... Respondent

Through: Mr. Anil Kumar, Advocate

CORAM:

HON'BLE MS. JUSTICE POONAM A. BAMBA

POONAM A. BAMBA, J :-

1.0. Vide this petition, the petitioner has sought quashing of order/award dated 04.06.2015 of the learned Presiding Officer, Labour Court, Karkardooma Courts, Delhi in ID No. 305/08/98.

2.0 The respondent was employed as conductor with the petitioner when his removal from service was ordered. He was suspended with effect from 10.04.1995 and was served with a charge sheet on 10.05.1995. Pursuant to raising of industrial dispute by the respondent, following reference vide order dated 01.09.1998 was made by the Government of NCT of Delhi to the learned Labour Court:

“Whether the removal of Sh. Ramanand from service is illegal/or unjustified and, if so, to what relief is he entitled



and what directions are necessary in this respect”

3.0 While answering the said reference, the learned Labour Court vide order dated 27.07.2009 decided the issue number 1 i.e., “whether the management has not conducted a fair and proper enquiry in accordance with the principles of natural justice” in favour of the respondent/workman and against the petitioner/management and listed the matter for evidence on merits. After leading of evidence, the learned Labour Court vide impugned award concluded that the petitioner/management successfully proved charge no. 1 i.e., the respondent/workman in collusion with the driver had moved the bus from Vasant Vihar, Depot 25 minutes in advance to the scheduled time of 10:30 pm. Learned Labour Court further found that the petitioner/management however failed to prove charges no. 2 & 3 i.e., “2. the respondent snatched the waybill from the checking staff, misbehaved with superior officials at a public place and used wrong language” and “3. the respondent threatened them to teach a lesson in future”. After recording those findings and taking into account the other facts and circumstances, learned Labour Court answered the reference granting following relief to the respondent:

*“17. Taking into account the facts and circumstances and the above citations, the management is **directed to pay 50% of the back wages to the claimant from 02.02.1996 till the date of his retirement which has been calculated by ARW as 10.06.2014 with all consequential benefits.** The management is **directed to pay the said amount to the workman within a month from the date of publication of this award failing which it shall be liable to pay interest @ 12 per cent per annum from today till realization.** Award is passed accordingly. The reference is*



answered accordingly.”

4.0 The above award has been challenged by the petitioner/management on the ground that the learned Labour Court failed to consider the deposition of the management’s witness Raj Kumar who stated that the respondent workman had misbehaved with the officer and snatched the waybill in the presence of 16 passengers in the bus. Thus, the learned Labour Court erred in misinterpreting the submissions of the said witness. It is also submitted that the learned Presiding Officer on one hand held that management has failed to prove the charges against the respondent workman and on the other hand, noted that it was a small misconduct by the workman for which only one or two increments should have been stopped.

5.0 *Per contra*, learned counsel for the respondent submits that the petitioner management imposed harsh/grossly disproportionate punishment of removal from service for a minor misconduct of the respondent. Whereas, as per its own affidavit dated 02.05.2023 filed pursuant to direction of this court vide order dated 13.03.2023, the petitioner management has imposed much lesser punishment, on the driver Mahipal who was similarly involved, of stoppage of only next due one increment with cumulative effect. In view of the same, the respondent could not have been awarded punishment of removal from service for the similar misconduct.

6.0. In rebuttal, the learned counsel for the petitioner/management



submitted that since the claim of parity with the driver Mahipal has been raised for the first time by the respondent before this Court, this court may remand the matter back to learned Labour Court for consideration of the same.

7.0 This is the matter which involves the incident of 11.04.1995 and the reference was made vide order dated 01.09.1998 in which the impugned award came to be passed on 04.06.2015. The respondent attained the age of superannuation on 10.06.2014 He is stated to have died on 10.04.2014. In view of these facts and circumstances, no purpose would be served in remanding the matter back at this stage. As far as the claim of parity now raised by the learned counsel for the respondent is concerned, suffice it to state that the respondent admittedly did not challenge the award.

8.0 However, the fact remains that the petitioner/management directed only stoppage one increment with cumulative effect, of the driver who was similarly placed. Considering the facts and circumstances in entirety, I find no merit in the challenge laid by the petitioner/management to the impugned award whereby the petitioner has been directed to make payment of 50% of the back wages from 02.02.1996 till the date of the workman's retirement on 10.06.2014 with all consequential benefits.

9.0 The petition is accordingly dismissed.



10.0 Pending application stands closed.

POONAM A. BAMBA
JUDGE

AUGUST 25, 2023/g.joshi