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

+ LPA 65/2024

DELHI TRANSPORT CORPORATIONAppellant

Through: Mr. Aviral Saxena & Mr. Paritosh
Goyal, Advocates.

versus

RANBIR SINGHRespondent

Through: Mr. R.K. Nain, Mr. Chandan
Prajapati & Mr. Mukul Kumar,
Advocates.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% **03.02.2026**

CM APPL. 4777/2024 (Condonation of Delay)

1. For the reasons stated in the Application, the delay of 162 days in filing the Appeal is hereby condoned. The same is allowed.
2. The Application stands disposed of.

CM APPL. 4780/2024 (Condonation of Delay)

3. For the reasons stated in the Application, the delay of 162 days in re-filing the Appeal is hereby condoned. The same is allowed.
4. The Application stands disposed of.

LPA 65/2024 & CM APPL. 4779/2024 (Stay)

5. This is an Intra Court Appeal challenging the order dated 04.01.2023 (“**Impugned Order**”) passed in W.P. C. 6392/2017 (“**Writ Petition**”) filed by the Appellant being aggrieved by the Award dated 04.07.2016



(“**Award**”) passed by the learned Labour Court, whereby in exercise of power under Section 11A of the Industrial Disputes Act, 1947 (“**ID Act**”), the learned Labour Court modified the penalty of termination of the Respondent by the Appellant to that of retirement.

6. The Appellant has challenged the Impugned Order on the ground that the learned Single Judge erred in law by granting relief of 50% of the pension although the Respondent was on unauthorized leave from 20.09.2007 to 03.09.2008 affecting the day-to-day operations of the Appellant, which provides essential public service.

7. The brief facts leading to the filing of the present Appeal are as under:

7.1.The Respondent was appointed as a driver by the Appellant on 20.01.1985. On a report against the Respondent for unauthorized absence from the duty, a charge-sheet dated 11.09.2008 was issued to the Respondent for unauthorized absence from service during the period from 20.09.2007 to 03.09.2008.

7.2.The Respondent failed to submit his reply to the charge-sheet within the stipulated time. Consequently, the case file was sent to the Enquiry Officer (North) for conducting a detailed enquiry in the case. The Enquiry Officer conducted a detailed enquiry after following the principles of natural justice by giving full opportunity to the Respondent to be heard and to defend his case.

7.3.On 27.04.2009, during the enquiry proceedings, the Respondent admitted the charges levelled against him and the Enquiry Officer submitted an Enquiry Report to the Depot Manager. On 13.05.2009, a Show Cause Notice was issued to the Respondent for removal from service asking reasons as to why his services



should not be terminated. On 18.05.2009, the Respondent submitted his reply. As the reply was not found to be satisfactory, the Appellant *vide* Office Memo dated 20.05.2009 removed the Respondent from service of the Appellant.

7.4. On 01.06.2009, the Respondent filed an appeal against the removal before the Regional Manager, which was rejected. Being aggrieved with the removal, the Respondent filed a statement of claim before the learned Labour Court on 16.11.2009.

7.5. The learned Labour Court *vide* order dated 04.07.2016 took a sympathetic ground and modified the order of removal and held that the Respondent would be deemed to have retired with effect from 20.05.2009. Being aggrieved by the order dated 04.07.2016 passed by the learned Labour Court, the Appellant challenged the same *vide* Writ Petition.

7.6. The learned Single Judge *vide* the Impugned Order modified the order of learned Labour Court and reduced the pension for the period from 20.05.2009 till 04.07.2016 to 50% in the interest of justice and granted full pension with effect from 04.07.2016. Being aggrieved by the Impugned Order, the Appellant has preferred the present Appeal.

8. The learned Counsel for the Appellant has submitted that the Respondent admitted the charges, which were levelled against him. The Respondent further explained that he availed the leave due to the illness of his ailing mother and sister-in-law, however, could not inform the Appellant as no co-worker was living near his residence. It was further submitted that the Respondent's past record revealed that there were 14 adverse entries



against him, out of which 11 entries were only for unauthorized absence for which major punishment had been awarded to him. The learned Counsel for the Appellant submitted that the learned Labour Court *vide* the Award observed that principles of natural justice were fully followed during the domestic enquiry and also found that the unauthorized absence from duty for about a year shows the complete lack of devotion to duty on part of the Respondent. The learned Labour Court also observed that there was no illegality in the removal of the Respondent. However, despite the same, the learned Labour Court took a sympathetic view considering the length of service of the Respondent of about 25 years. Accordingly, the learned Labour Court found that the punishment of removing the Respondent from service was slightly disproportionate to the proved misconduct and held that the Respondent would be deemed to have retired with effect from 20.05.2009 and in turn would be entitled to all retirement and consequential benefits including the pension.

9. It was further submitted on behalf of the Appellant that the learned Single Judge while agreeing with the submissions of the Appellant regarding the unauthorized absence of the Respondent, further modified the order dated 04.07.2016 overlooking the material facts and evidence on record and directed the payment of 50% of the pension for the period from 20.05.2009 to 04.07.2016 and full pension with effect from 04.07.2016. Accordingly, the learned Single Judge failed to appreciate that power under Section 11A of the ID Act has to be exercised judiciously and the learned Labour Court was expected to interfere under Section 11A of the ID Act only when it was satisfied that the punishment imposed by the management was wholly and shockingly disproportionate to the degree of the guilt of the workman



concerned. It was submitted that considering the nature of the duties attached to the post of the driver of a bus and his past record of unauthorized leave, the learned Single Judge failed to consider that the power under Section 11A of the ID Act is very limited.

10. It was submitted on behalf of the Appellant that the learned Single Judge erred in not considering the ratio laid down in ***Standard Chartered Bank v. R. P. Srivastava***, 2021 SCC OnLine SC 830, where the Hon'ble Supreme Court had upheld the employer's dismissal order issued after a domestic enquiry and clarified that the scope of judicial review of domestic enquiry is limited to ensuring that the enquiry process adheres to proper procedure and complies with the principles of natural justice. Further, it emphasized that the learned Labour Court's decision should not be based upon mere assumption and cannot arbitrarily overturn the management's decision despite the broad jurisdiction under Section 11A of the ID Act and cautioned against the careless and whimsical exercise of this authority. The relevant extract is reproduced as under:

"10. However, in the instant case, the Tribunal converted itself into a Court of Appeal and has not only revisited the evidence in toto but has proceeded on the assumption that the management has to prove the charges beyond reasonable doubt and despite the material evidence of three officers, who were abused by respondent-workman in drunkenness condition, have been completely disowned on the premise that one Watchman (DW-1) and an ex-employee of the Bank(DW-2) have stated in their deposition that such incident has not occurred and to justify it, a document was placed on record i.e. the attendance register of the time in question and to confront it further with the fact that the delinquent had not appeared in the domestic enquiry and still a finding has been recorded by the Tribunal that such incidence has not occurred is something which has appeared from blue and without there being any iota of the factual foundation, the interference made by the tribunal in the



finding of guilt recorded in the course of enquiry is not only perverse but is unsustainable in law.

11. The scope of judicial review in the matter of domestic enquiry is to examine whether the procedure in holding domestic enquiry has been violated or the principles of natural justice has been complied with, or any perversity in the finding of guilt recorded during the course of domestic enquiry has been committed. The basic error which was committed by the Tribunal in its impugned Award has not been appreciated even by the High Court and dismissed the writ petition without appreciating the finding recorded in the domestic enquiry keeping into consideration the principles laid down by this Court of preponderance of probabilities while holding guilt in the domestic enquiry and exceeded in its jurisdiction defined under Section 11-A of the Act 1947. To the contrary, the officers with whom the alleged occurrence of gross misconduct has been committed have been put to notice that their allegation on the face of it is unfounded, baseless and has not at all occurred which is something beyond imagination. More so, when it was established during the course of enquiry after affording an opportunity of hearing to the delinquent respondent, enquiry officer held the charges proved and confirmed by the disciplinary authority followed with the penalty of dismissal upon the respondent.

18. In the instant case, after we have gone through the record, we find that the Tribunal has converted itself into a Court of Appeal as an appellate authority and has exceeded its jurisdiction while appreciating the finding recorded in the course of domestic enquiry and tested on the broad principles of charge to be proved beyond reasonable doubt which is a test in the criminal justice system and has completely forgotten the fact that the domestic enquiry is to be tested on the principles of preponderance of probabilities and if a piece of evidence is on record which could support the charge which has been levelled against the delinquent unless it is per se unsustainable or perverse, ordinarily is not to be interfered by the Tribunal, more so when the domestic enquiry has been held to be fair and proper and, in our view, the Tribunal has completely overlooked and exceeded its jurisdiction while interfering with the finding recorded during the course of enquiry in furtherance of



which, the respondent was dismissed from service and the High Court has also committed a manifest error while passing the judgment impugned.”

11. The learned Counsel for the Appellant also relied upon the decision in **LIC of India v. R. Dhandapani**, (2006) 13 SCC 613, wherein it is held that:

“7. It is not necessary to go into detail regarding the power exercisable under Section 11-A of the Act. The power under the said Section 11-A has to be exercised judiciously and the Industrial Tribunal or the Labour Court, as the case may be, is expected to interfere with the decision of the management under Section 11-A of the Act only when it is satisfied that punishment imposed by the management is wholly and shockingly disproportionate to the degree of guilt of the workman concerned. To support its conclusion the Industrial Tribunal or the Labour Court, as the case may be, has to give reasons in support of its decision. The power has to be exercised judiciously and mere use of the words “disproportionate” or “grossly disproportionate” by itself will not be sufficient.

8. In recent times, there is an increasing evidence of this, perhaps well-meant but wholly unsustainable, tendency towards a denudation of the legitimacy of judicial reasoning and process. The reliefs granted by the courts must be seen to be logical and tenable within the framework of the law and should not incur and justify the criticism that the jurisdiction of the courts tends to degenerate into misplaced sympathy, generosity and private benevolence. It is essential to maintain the integrity of legal reasoning and the legitimacy of the conclusions. They must emanate logically from the legal findings and the judicial results must be seen to be principled and supportable on those findings. Expansive judicial mood of mistaken and misplaced compassion at the expense of the legitimacy of the process will eventually lead to mutually irreconcilable situations and denude the judicial process of its dignity, authority, predictability and respectability. (See Kerala Solvent Extractions Lid. v. A. Unnikrishnan².)

9. Though under Section 11-A, the Tribunal has the power to reduce the quantum of punishment it has to be done within the parameters of law. Possession of power is itself not sufficient; it has to be exercised in accordance with law.”



12. Further, the learned Counsel for the Appellant relied upon the decision of the Hon'ble Supreme Court in ***Uttar Pradesh State Road Transport Corporation v. Gajadhar Nath***, (2022) 3 SCC 190, wherein it is held that:

“when a proper enquiry has been held by the employer, and the finding of misconduct is a plausible conclusion flowing from the evidence, adduced at the said enquiry, the Tribunal has no jurisdiction to sit in judgment over the decision of the employer as an appellate body.”

13. The learned Counsel for the Appellant submitted that the learned Single Judge failed to appreciate that the unauthorized absence of about one year sufficiently proved the absolute lack of devotion on part of the Respondent towards his duty and hence did not deserve any relief either by the learned Labour Court or by the learned Single Judge. The learned Single Judge also overlooked the fact that the Appellant followed the rules under Delhi Road Transport Authority (Conditions of Appointment and Services) Regulations, 1952 concerning the disqualification of the employee / workman by conducting a fair and impartial enquiry before terminating the Respondent. The relevant rules are reproduced as under:

“Under Para 15(1) of D.R.T.A. (Conditions of Appointment & Service, 1952, the following standing orders are issued, governing the conduct of the Authority's Employees. A breach of these orders by any employee will amount to misconduct and make him liable to disciplinary action referred to in para 15(2) of the said regulations:-

4. Absence without permission

(i) An employee shall not absent himself from his duties without having first obtained the permission from the Authority or the competent officer except in the case of sudden illness. In the case of sudden illness, he shall send intimation to the office immediately. If the illness lasts or is expected to last for more than 3 days at a time,



application for leave should be duly accompanied by a medicate certificate from a registered medical practitioner or the Medical Officer of the D.T.S. In no case shall an employee leave station without prior permission.

(ii) Habitual absence without permission or sanction of leave and any continuous absence without such leave for more than 10 days shall render the employee liable to be treated as an absconder resulting in the termination of his service with the organisation.

15 – Conduct, Discipline and Appeal:-

1. Conduct – The Delhi Road Transport Authority may from time to time issue standing orders governing the conduct if this orders. The breach of such orders will amount to ‘MISCONDUCT’ and make him liable to disciplinary action referred to Para 15(2) of the said regulations.

(1) (A) Suspension pending enquiry or criminal investigation etc – The appointing authority of any officer delegated with powers by the appointing authority in this behalf may place an employee under suspension.

(i) Where a disciplinary proceedings are pending against him is contemplated or is pending;

(ii) Where the criminal proceedings in respect of any offense is under investigation or trial;

A statement setting out in detail the reasons for such suspension shall be supplied to the employee within a week from the date of suspension.

(2) (B) An employee who is placed under suspension under sub clause (1) (A) shall during the period of such substances allowing at the rate indicated suspension shall be paid in clause 15 (4) (a) (b).

The employee is liable for disciplinary action referred to Para 15(2) of the said regulations for ‘MISCONDUCT’ in case of breach of standing orders issued under para 15(1) of DRTA (Conditions of Appointment & Service) Regulations 1952. They are:-

19. General Provisions: Without prejudice to the provisions of the foregoing Standing Orders, the following acts of commission and omission shall be treated as mis-conduct.



- (a)
- (b) *Theft, fraud or dishonesty in connection with the Authority business or property;*
- (c) *Willful damage or loss to Authority's goods or property;*
- (d).....
- (e).....
- (f) *Habitual breach of any rules, law, instructions or orders etc. applicable to the employees of the Authority*
- (g).....
- (h) *Habitual negligence of duties and lack of interest in the Authority's work.*
- (i).....
- (j).....
- (k) *Any offence involving moral turpitude which is punishable under the I.P.C.*
- (l).....
- (m) *Any other activity not specifically covered above, but which is prima facie detrimental to the interests of the organization*

1. Discipline (a) – The following penalties may for misconduct for a good or sufficient reason may be imposed on the employee of the Delhi State Transport Authority.

- (i) *Censor including reprimand and warning;*
- (ii) *Withholding of increment or promotion including stoppage at an efficiency bar;*
- (iii) *Reduction to a lower post or timescale or to a lower stage in a timescale;*
- (iv) *Recovery from pay or the security or any other dues of the whole or part of any pecuniary loss caused to the Delhi Road Transport Authority by negligently default or breach of orders. The term pecuniary loss shall include damage to or loss of stores expressly entrusted to the person concerned for custody;*
- (v) *Suspension;*
- (vi) *Removal from the services of Delhi Road Transport Authority;*
- (vii) *Dismissal from the service of Delhi Road Transport Authority*
- (viii) *Fines as provided in Payment of Wages Act.”*

14. Accordingly, it was submitted that the learned Single Judge committed an error by not considering that the Respondent did not have a clean track record and was found guilty of misconduct in the past as well.



The learned Counsel for the Appellant submitted that the learned Single Judge failed to appreciate the ratio laid down by this Court in **Bharat Bhushan v. D.T.C.**, (W.P.(C) No. 1771/2008), wherein it is held that:

“16. In the case of DTC Vs. Sardar Singh, 2004 SCC (L&S) 946, the Apex Court at page 950 in para 9 has observed as under:

“9. When an employee absents himself from duty, even without sanctioned leave for a very long period, it prima facie shows lack of interest in work. Para 19(h) of the Standing Orders as quoted above, relates to habitual negligence of duties and lack of interest in the authority’s work. When an employee absents himself from duty without sanctioned leave, the authority can, on the basis of the record, come to a conclusion about the employee being habitually negligent in duties and an exhibited lack of interest in the employer’s work. Ample material was produced before the Tribunal in each case to show as to how the employees concerned were remaining absent for long periods which affects the work of the employer and the employee concerned was required at least to bring some material on record to show as to how his absence was on the basis of sanctioned leave and as to how there was no negligence. Habitual absence is a factor which establishes lack of interest in work. There cannot be any sweeping generalisation. But at the same time some telltale features can be noticed and pressed into service to arrive at conclusions in the departmental proceedings.”

17. In the case of Indian Iron Steel Company Vs. Their Workmen, AIR 1958 SC 130, it was held: “Mere fact that the workman applied for leave is no ground for excusing him when the leave was refused.”

15. The learned Counsel for the Appellant also submitted that the Appellant being a large corporation, the Impugned Order will be a precedent and has caused grave inconvenience and hardship to the Appellant. In view of the same, it is prayed that the Impugned Order be set aside.



16. We have considered the submissions made by the learned Counsel for the Appellant.

17. Section 11A of the ID Act provides as under:

“11A. Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen.— *Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:*

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter”

18. The learned Single Judge has after considering the factual matrix and the submissions made by the Parties, concluded that the direction of payment of full pension to the Respondent for the period between 20.05.2009 till the date of passing of the Award was unsustainable as the Respondent having remained on leave without sanction did not deserve to receive full pension from the date of his initial termination. Accordingly, in the interest of justice, it was directed that the Respondent will be paid only 50% of the pension for the period between 20.05.2009 till the date of Award, i.e., 04.07.2016 and will be entitled to receive full pension with effect from 04.07.2016.



19. It is a settled law that the power under Section 11A of the ID Act has to be exercised judiciously and only when the learned Labour Court is satisfied that the punishment imposed by the management was wholly and shockingly disproportionate to the degree of guilt of the workman concerned. The learned Labour Court has exercised the power under Section 11A of the ID Act considering the peculiar facts and circumstances of the case especially the long service of 25 years rendered by the Respondent.

20. Accordingly, such exercise of power by the learned Labour Court under Section 11A of the ID Act cannot be considered to be a whimsical exercise of the power. In support of the decision to exercise power under Section 11A of the ID Act, the learned Labour Court has given the reasons, which appear to be justified.

21. The learned Single Judge has further modified the Award by reducing the pension during the pendency of the proceedings before the learned Labour Court to 50% considering the overall facts and circumstances of the case and in the interest of justice. Accordingly, the Appellant has partially succeeded before the learned Single Judge.

22. As the power under Section 11A of the ID Act is discretionary and the said discretion exercised by the learned Labour Court is already modified in the Impugned Order, no further interference is required in the Award as well as the Impugned Order. The findings arrived at by the learned Labour Court and the learned Single Judge are proportionate to the degree of guilt of the Respondent and, accordingly, are in accordance with the law laid down in relation to the provisions of Section 11A of the ID Act.

23. As the Show Cause Notice only alleged the unauthorized leave from 20.09.2007 to 03.09.2008, the argument of the Appellant that the past record



of the Respondent ought to have been taken into consideration, is not sustainable. The learned Labour Court as well as the learned Single Judge have considered the overall facts and circumstances of the case, especially the long service of 25 years rendered by the Respondent, and have arrived at the conclusion that the penalty of termination of the Respondent by the Appellant be converted to that of retirement and the Respondent be granted relief of 50% of the pension for the period from 20.05.2009 till 04.07.2016 and full pension with effect from 04.07.2016.

24. Accordingly, no interference is warranted with the Award as well as the Impugned Order and the present Appeal stands dismissed. There should be no order as to costs.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

FEBRUARY 3, 2026

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