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

Reserved on : 10.04.2026

Pronounced on : 29.05.2026

Uploaded on : 29.05.2026

+ **W.P.(C) 11656/2018 & CM APPL. 45022/2018**

DELHI TRANSPORT CORPORATIONPetitioner
Through: Ms Manisha Tyagi, Advocate

versus

MAHESH KUMARRespondent
Through: Mr. B.S. Rana and Mr. Deepanshu
Singhal, Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present petition has been preferred seeking setting aside of the award dated 12.04.2018 passed by the Labour Court, whereby the claim petition instituted by the respondent/workman was allowed and the petitioner/management was directed to reinstate the workman with all consequential benefits along with 25% back wages from the date of termination till reinstatement within a month from the date of publication of the award, failing which interest @ 9% per annum would also become payable.

2. At the outset, learned counsel for the petitioner fairly submitted that the petitioner has already complied with the direction relating to reinstatement of the workman and has also placed on record the letter of



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reinstatement dated 14.09.2018, a position also noted in the earlier proceedings. Thus, it is submitted that the challenge in the present petition stands substantially narrowed only to the grant of 25% back wages and consequential benefits awarded in favour of the workman.

3. Briefly stated, the case of the workman is that he was appointed as a Driver with the management *vide* appointment letter dated 13.01.2011 after successfully clearing the written and medical examinations conducted by Delhi Subordinate Services Selection Board and was posted in Millenium Depot. Earlier, an FIR bearing No. 679/2003 under Sections 279/338 IPC was registered against him at P.S. R.K. Puram, however, he was acquitted *vide* judgment dated 15.07.2011. At the time of seeking appointment, the workman had not disclosed about the aforementioned criminal trial faced by him. Thereafter, the management issued memo dated 03.05.2012 alleging concealment of facts in the Character Verification Roll (CVR), followed by a charge-sheet dated 20.07.2012 and domestic inquiry, wherein the workman admitted the charge, while also asserting lack of proper understanding and ignorance at the time of filling up of form. He challenged the domestic proceedings on the ground that no assistance was provided during the inquiry, and the same was completed without properly explaining the procedure. Subsequently, a show cause notice dated 21.11.2012 was issued, which was replied to by the workman on 29.11.2012. His services were terminated *vide* order dated 03.12.2012. The workman preferred an appeal which was dismissed on 01.07.2016, whereafter he raised an industrial dispute challenging his termination.

4. Learned counsel for the petitioner contended that the Labour Court failed to appreciate that the industrial dispute was raised after a considerable



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delay of nearly five years. It is further contended that, without prejudice to the rights and contentions of the petitioner, the Labour Court despite holding the inquiry to be fair and proper, erred in granting 25% back wages and consequential benefits in favour of the workman as he admittedly did not work during the intervening period and, therefore, in view of the settled principle of “No Work No Pay”, he was not entitled to any back wages or consequential benefits. Reliance in this regard has been placed on J.K. Synthetics Ltd. v. K.P. Agrawal¹.

5. *Per Contra*, learned counsel appearing for the workman submits that the Labour Court adopted a balanced and equitable approach by awarding only 25% back wages despite recording findings in favour of the workman. It is submitted that the termination of the workman was held to be unjustified and, therefore, the grant of consequential benefits along with partial back wages does not warrant interference. It is further submitted that the workman suffered prolonged unemployment owing to the action of the petitioner. It is also submitted that although the management now contends that the claim was raised after nearly five years from the date of termination, no such objection was either raised before the Labour Court or specifically pleaded in the present writ petition. Even otherwise, the Labour Court, being conscious of the said aspect, did not frame any issue in that regard.

6. To appreciate the limited controversy, it is deemed apposite to note that the award came to be passed in the context of the following reference:

“Whether the termination of Sh. Mahesh Kumar S/o Sh. Baney Singh Age 47 years from services by the management vide order No. WD/A1(T)/Misc-230/2012/5935 dtd. 03.12.2012 is illegal and/or unjustified and if so, to

¹ (2007) 2 SCC 433



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what relief is he entitled and what directions are necessary in this respect?"

7. On filing of pleadings, the Labour Court framed the following issues for adjudication:

- (i) Whether the enquiry conducted by the management was fair and proper?
- (ii) Whether the termination of the workman by the management was legal and justified in terms of the reference?
- (iii) Relief.

8. Insofar as Issue No. 1 is concerned, it is apt to note that the Labour Court though observed that the domestic enquiry conducted by the management was fair and proper, however, held the termination to be illegal and answered the issue no.2 in favour of the workman. While granting 25 % back wages, the Labour Court observed that the workman faced the criminal case for minor offences under Sections 279/338 IPC. Further, he had already been acquitted prior to submission of the CVR form. The Labour Court also took note of the stand of the workman that the Management had failed to consider Circular/Office Orders dated 05.08.1955, 08.04.1968 and 28.08.2012, which contemplated that in cases where an employee had been acquitted or fined for petty offences prior to appointment, only minor punishments such as warning, reprimand or censure ought to be imposed. However, despite the aforesaid circulars/orders, the Management proceeded to terminate the services of the workman under Clause 9(a)(i) of the DRTA (Conditions of Appointment and Service) Regulations, 1952.

9. The petitioner seeks to rely on the decision in J.K. Synthetics Ltd. (supra) in support of his challenge to the grant of 25% back wages. This



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Court, however, finds the reliance to be misplaced as the said decision is distinguishable on facts. In the said case, the Supreme Court was dealing with serious misconduct proved against the employee in departmental proceedings. It was observed therein that where reinstatement is granted only as a consequence of reduction of punishment, grant of back wages is not automatic and depends upon the facts and circumstances of each case. Further, where misconduct stands proved and reinstatement is granted by substituting a lesser punishment, award of full back wages may not necessarily follow as a natural consequence.

10. In the present case, the termination was held to be illegal but also, the misconduct pertained merely to non-disclosure of a minor criminal case involving offences under Sections 279/338 IPC, in which the workman had already been acquitted. There was neither any allegation of moral turpitude nor any act involving corruption, dishonesty, or grave criminality. Further, the period involved in the present case was also comparatively limited, being about six years from the date of termination till the passing of the award, unlike the prolonged period involved in the aforesaid case.

11. At this stage, a gainful reference can be made to the decision of the Supreme Court in Commissioner of Police v. Sandeep Kumar², wherein the candidate had failed to disclose his involvement in a criminal case under Section 325/34 IPC in the employment application. The Supreme Court, while taking note of the fact that the offence was not serious in nature and that the candidate had already been acquitted, observed that such non-disclosure was probably on account of fear of automatic disqualification. It

² (2011) 4 SCC 644



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was observed that since the offence was not of the nature of murder, dacoity or rape, a more lenient view ought to be taken in the matter.

Even otherwise, the exceptions carved out in J.K. Synthetics Ltd. (supra) are not attracted in the facts of the present case. It was observed that back wages may still be awarded in cases where the employee is exonerated or where the enquiry pertains to a frivolous or petty misconduct and the punishment imposed is disproportionately excessive so as to victimize the employee.

12. While considering issue no.3, the Labour Court took into consideration that the workman occupied the lowest post of Driver. The workman had categorically stated that he remained unemployed after termination in the year 2012. Once such assertion was made, the initial burden stood discharged, whereafter it was upon the management to establish that the workman was gainfully employed elsewhere. No such evidence was led by the management. In the considered opinion of this Court, the Labour Court has exercised balanced discretion by awarding only 25% back wages instead of full back wages.

13. Before proceeding further, this Court takes note of the limited scope of writ jurisdiction in exercise of powers conferred under Article 226 of the Constitution of India. It is well settled that the challenge is not in the nature of appeal, but to see if the order is passed without jurisdiction, is perverse or did not follow principle of natural justice [Ref: Syed Yakoob v. K.S. Radhakrishnan³]. The same principle was reiterated by the Supreme Court in International Airport Authority of India v. International Air Cargo

³ 1963 SCC OnLine SC 24



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Workers Union⁴. This Court has also considered the scope of its writ jurisdiction in 'Ritz Theatre Private Limited v. Ramesh Chandra'⁵.

14. Upon a cumulative consideration of the aforesaid, this Court does not find any apparent illegality or perversity in the findings returned by the Labour Court so as to warrant interference in exercise of writ jurisdiction. The findings returned by the Labour Court are based on due appreciation of the oral and documentary evidence on record and is, therefore, not liable to be interfered with.

15. Therefore, the impugned award is upheld.

16. *Vide* order dated 29.10.2018, the petitioner deposited the awarded back wages before this Court. Let the aforesaid amount along with accrued interest be released in favour of the workman.

17. Accordingly, the present writ petition, alongwith pending application, is dismissed.

(MANOJ KUMAR OHRI)
JUDGE

MAY 29, 2026

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⁴ (2009) 13 SCC 374

⁵ 2024 SCC OnLine Del 3633