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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 1st September, 2026***# **CNR No. DLHC010247742003**+ **W.P.(C) 4703/2003 & CM APPL. 8223/2003**

D.T.C.

.....Petitioner

Through: Ms. Manisha Tyagi, Adv.

versus

PREM SINGH & ORS.

.....Respondents

Through: Mr. Vinay Sabharwal with Mr.
Karvnesh Shah, Advs.**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present petition has been filed seeking setting aside of the Order dated 26.04.2002, passed by the Presiding Officer, Labour Court, whereby the Application filed by the Petitioner/Management under Order VI Rule 17 of the Civil Procedural Code, 1908, was dismissed and the Award dated 13.05.2002 passed in I.D. No. 909/1996, whereby the Respondent was directed to be reinstated with continuity of service along with full back wages.

2. Succinctly stated, the Respondent was appointed as *conductor* with the Petitioner on 15.11.1979. Allegedly, while performing his duty as a conductor on Mangol Puri D Block, he was caught by the checking staff of the Petitioner while selling bogus tickets to the passengers and also possessing bogus tickets at his residence.

3. Consequently, the challan was issued, and Chargesheet dated



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07.08.1987 was issued to the Respondent. The FIR No. 265/87 dated 29.07.1987 was registered at Police Station Mangolpuri, against the Respondent under section 420/468/471 of the Indian Penal Code, 1860.

4. After conducting the enquiry, the enquiry report was submitted by the Enquiry Officer on 14.09.1987, whereby all the charges of misconduct were held to be proved.

5. The Disciplinary Authority, passed the Order dated 20.01.1988, terminating the services of the Respondent.

6. *Vide* Judgment dated 01.04.1995, the Respondent was acquitted in the pending criminal case. It was observed that only formal witness PW2 – HC Kaptan Singh and PW1- ATI Ishwar Singh were examined by the prosecution. After consideration of the evidence of the PW1, it was held that no evidence was produced to prove that the Respondent made the tickets, or induced any person to purchase the tickets or he sold these tickets. Hence, no offence under sections 420/468/471 could be proved and thus, the Respondent was acquitted by granting him benefit of doubt.

7. As disclosed in the Statement of Claim filed by the Respondent, after the said acquittal, he sent a Letter/Demand Notice dated 08.05.1995 and 05.06.1995 to the management seeking reinstatement, however, no response was received.

8. It is further disclosed that he filed the statement of claim dated 27.06.1995 before the Conciliation Officer, Rajouri Road, Delhi, which was referred to the Learned Labour Court on 12.11.1996.

9. Order dated 22.02.2002 was passed by the Learned Labour



Court, whereby the issue whether the enquiry has been conducted in accordance with principles of natural justice, was decided in favour of the Respondent. It observed that the enquiry had commenced and concluded on 11.09.1987 and that ATI Ishwar Singh, who was relied upon as the principal witness, had merely adopted his pre-recorded report dated 29.07.1987 instead of having his statement recorded and being examined in the presence of the workman. The learned Labour Court further observed that no other management witness was examined during the enquiry and, consequently, the workman was not afforded an effective opportunity to cross-examine the witnesses relied upon by the management. It was specifically noted that the management has not sought an opportunity in its written statement to lead evidence on the merits in the event the enquiry was held invalid.

10. Order dated 24.04.2002, records that the case was specifically fixed for management evidence on Issue No. 2. The management, through its AR, categorically stated that it did not want to lead any evidence on Issue No. 2, whereupon management evidence was closed. The workman's statement was then recorded and his evidence was also closed. It is further recorded that, at that stage, only after closing of the evidence, the management moved the application under Order VI Rule 17 of the CPC, seeking to amend its written statement so as to introduce a plea that, if the enquiry was found defective, it should be permitted to lead evidence on merits.

11. *Vide* impugned Order dated 26.04.2002, the learned Labour Court, dismissed the Application filed by the Petitioner/Management under Order VI Rule 17. It was held that the case pertains to a



termination of the year 1988; the reference was made in the year 1996 and the matter had already progressed substantially, yet no such plea was ever raised by the management. It was further observed that the management was required to seek leave to lead additional evidence, in the alternative and without prejudice to its stand, at the stage of filing the written statement itself, and now cannot be permitted to lead evidence after a lapse of several years. The learned Labour Court was particularly conscious that allowing the amendment would result in further delay in adjudication of the dispute which had already remained pending for about seven years and would cause grave prejudice to the Workman.

12. *Vide* the impugned Award dated 13.05.2002, the learned Labour Court noted that the domestic enquiry had already been held vitiated *vide* Order dated 22.02.2002 and as the Management had not sought permission in its written statement to lead evidence to prove the misconduct on merits, no such opportunity could be granted to it thereafter. It was further noted that the Management also failed to lead evidence on *Issue No. 2* and on 24.04.2002, expressly stated that it did not wish to lead evidence regarding the Workman's gainful employment, whereupon its evidence was closed. Consequently, the learned Labour Court held that the allegations of selling and possessing bogus tickets remained unproved and the termination was illegal and since the Management also failed to discharge the burden of proving gainful employment, directed reinstatement of the Workman with continuity of service and full back wages.

13. Aggrieved the present petition has been filed



14. Learned Counsel for the Petitioner submits that the learned Labour Court ought to have awarded opportunity to the Petitioner to lead evidence on the misconduct. It is submitted that the checking report, challan, FIR, enquiry report and other material on record established the misconduct, which the Labour Court failed to appreciate. Additionally, the subsequent acquittal in the FIR, was because benefit of doubt had been extended to the Respondent and the same is of no consequence as departmental proceedings are decided on the basis of preponderance of probabilities and are not subject to the strict rules applicable to criminal trials. It is further submitted that the industrial dispute was raised after an unexplained delay of about eight years.

15. Lastly, it is submitted that even if the termination is held illegal, reinstatement with full back wages is not automatic. In view of the Respondent's superannuation; considerable amount paid under 17B of the Industrial Disputes Act, 1947 and the long passage of time, lump-sum compensation would meet the ends of justice.

16. *Per contra*, the learned Counsel for the Respondent has vehemently opposed the petition and submits that the domestic enquiry was rightly held to be vitiated and, since the Petitioner had not reserved its right in the written statement to lead evidence on the merits of the charges in the event of the enquiry being set aside, no such opportunity could subsequently be granted. As regards the delay, the same has been attributed to attempts of conciliation and resolution of the dispute with the Petitioner and the pending criminal case. Hence, it is urged that the petition be dismissed.



17. I have heard the parties and perused the material on record.

18. As regards the foundational issue of opportunity to lead evidence on merits, this Court does not approve of the manner in which the Petitioner proceeded before the learned Labour Court. The Petitioner had ample opportunity to seek permission to lead evidence on the merits of the alleged misconduct, but failed to incorporate such a plea in its written statement and, even thereafter, when the matter was specifically fixed for its evidence, categorically stated that it did not wish to lead any evidence, resulting in closure of its evidence. The subsequent plea that the omission was inadvertent, followed by a request to introduce the plea after its evidence had been closed, cannot be viewed favourably. Nevertheless, the aforesaid procedural lapse on the part of the Petitioner could not, in the facts of the present case, justify denying an opportunity to the Petitioner to establish the alleged misconduct on merits, when the request has been made during the pendency of the proceedings. The learned Labour Court, being the fact-finding forum, ought to have afforded such an opportunity and thereafter adjudicated the allegations on the basis of the evidence led by the parties.

19. Though much emphasis has been laid upon the subsequent acquittal of the Respondent in the criminal proceedings arising out of the FIR, the same could also not, by itself, conclude the issue of misconduct in the present proceedings. It is well settled that the standards governing a criminal prosecution and a disciplinary proceeding are distinct, and the alleged misconduct could have been examined by the learned Labour Court on the touchstone of



preponderance of probabilities. The acquittal in the criminal proceedings, therefore, would not have precluded the Petitioner from seeking to establish the charges in the industrial adjudication.

20. However, this Court is conscious of the fact that the alleged misconduct pertains to the year 1987, the Respondent was terminated from service in the year 1988, and the industrial dispute was thereafter referred in the year 1996. The Award itself was passed on 13.05.2002 and the present petition has remained pending for more than two decades thereafter. The Respondent has also attained the age of superannuation. It has been pointed out that subsistence allowance under 17B of the Industrial Disputes Act, 1947 already stands paid to the Respondent. At this stage, remanding the matter to the learned Labour Court to permit the parties to lead evidence on the alleged misconduct, after a lapse of nearly four decades from the date of the incident, would serve no useful purpose and would only prolong an already protracted litigation.

21. In these circumstances, the relief, therefore, requires to be moulded keeping in view the extraordinary passage of time, the superannuation of the Respondent and the fact that the dispute has remained pending for several decades. In order to bring quietus to the dispute and avoid any further round of litigation between the parties, and considering that the Respondent had worked for about 8-9 years with the management before the termination, a lump-sum compensation of ₹4,00,000/- to the Respondent would meet the ends of justice. The same is directed to be paid by the Petitioner within four weeks from date.



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22. Though much emphasis was laid by the Petitioner regarding delay of 8 years now, but that also does not, by itself, persuade this Court to deny relief, that too when the same issue was never enthusiastically agitated before the learned Labour Court. While the Respondent was terminated in 1988, it is borne out from the record that the criminal proceedings arising out of the same incident were pending and the Respondent has stated that he was awaiting their outcome. The Respondent was acquitted *vide* judgment dated 01.04.1995 and thereafter approached the Management seeking reinstatement in May/June 1995. Having received no response, he approached the Conciliation Officer and filed his statement of claim on 27.06.1995, whereafter the dispute was ultimately referred to the learned Labour Court on 12.11.1996. Thus, although there was a period between the termination and the initiation of the proceedings, the circumstances placed on record provide an explanation for the same, and the delay, in the facts of the present case, does not warrant denial of relief.

23. Accordingly, the impugned Award is modified, and the petition is disposed, along with pending application(s), if any.

AMIT MAHAJAN, J

SEPTEMBER 1, 2026

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