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

% ***Date of Decision: 16th March, 2026***

+ **W.P.(C) 6848/2017**

JAI BHAN

.....Petitioner

Through: Mr. Anil Mittal, Mr. Shaurya
Mittal, & Ms. Dhanya
Visweswaran, Adv.

versus

DELHI TRANSPORT CORPORATIONRespondent
Through: Ms. Manisha Tyagi, Adv.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T (O R A L)

ANIL KSHETARPAL, J.

1. On 24.02.2026, the following order was passed :

“ 1. The Petitioner was appointed as a Conductor with Delhi Transport Corporation ('DTC') on regular basis in the year 1982. However, he was removed from service on 07.10.1994, which forced him to seek redressal before the learned Labour Court.

2. By award dated 01.02.2010, the Petitioner was ordered to be reinstated with continuity of service, however, without any back wages.

3. The Petitioner filed a Writ Petition, which was dismissed, however, the LPA Bench remitted the matter back to the learned Labour Court for fresh decision on the question of back wages. Subsequently, the learned Labour Court awarded 50% of back wages.

4. The Petitioner was reinstated in service on 11.08.2010.

5. Against the order passed by the learned Labour Court granting 50% back wages, a Writ Petition was filed by the DTC in which the issue of back wages was finally decided and it was held that the Petitioner is entitled to back wages of ₹4,00,000/-.



6. *In the year 2012, the Petitioner had filed an Original Application bearing no. 3617/2012 praying for fixation of basic pay after giving benefit of notional increments, by assuming that he remained in continuous service from 1994 till 2010 without any break in his service. The said original application has been dismissed by the learned Tribunal by the impugned order dated 27.02.2017 by noting that the award of learned Labour Court did not order continuity in service and grant of notional benefits.*

7. *The Petitioner, after having worked from 2010 till 2017, has demitted office on attaining the age of superannuation.*

8. *In these circumstances, the following questions arise :*

i) *How and in what manner the salary of the Petitioner was fixed on his reinstatement in the year 2010?*

ii) *Whether he was given benefit of annual increments while fixing his salary in accordance with his counterparts?*

iii) *Whether the Petitioner will be entitled to benefit of ACP/MACP?*

9. *Learned counsel representing the Respondent is requested to file an affidavit in this regard.*

10. *List on 09.03.2026 in the 'Supplementary List'."*

2. In compliance with the aforesaid direction, an Affidavit has been filed by the Respondent.

3. Once again, this Court has heard learned counsel representing the parties.

4. As already noticed, the only issue is entitlement of the Petitioner to re-fixation of salary upon reinstatement pursuant to the order passed by the learned Labour Court, wherein it was directed that the Petitioner would be reinstated in service with continuity of service.

5. It is the stand of the Respondent that there is no direction by the learned Labour Court to re-fix the salary of the Petitioner upon reinstatement. It is claimed that reinstatement with continuity of service does not entail re-fixation of salary after notionally calculating annual increments.

6. Learned counsel representing the Respondent relies upon the



following Judgments :

- i. ***J.K. Synthetics Ltd. Vs. K.P. Agrawal & Anr. : 2007 (2) SCC 433.***
- ii. ***Rajasthan State Road Transport vs. Shyam Bihari Lal Gupta : 2005 (7) SCC.***

7. This Court has considered the submissions.

8. It is evident that the issue before the Hon'ble Supreme Court in ***J.K. Synthetics Ltd. (supra)*** was different to the present case, since, in the said case, the Court found that the punishment of dismissal of the employee was substituted by some lesser punishment and the observations were made only in the aforesaid context to hold that employee was not entitled for certain consequential benefits.

9. However, in the present case, the termination of Petitioner's services was found to be illegal by the learned Labour Court and he was specifically ordered to be reinstated in service with continuity of service.

10. Similarly, the Judgment passed in ***Rajasthan State Road Transport (supra)*** is also distinguishable because the Hon'ble Apex Court in the said case, had made certain observations while deciding an Execution Petition filed by an employee after a suit filed by him had been decreed. The issue involved in the aforesaid case was entirely different to the present issue.

11. In fact, attention of the Court has been drawn to a Division Bench Judgment of this Court in ***Mahabir Prasad vs. Delhi Transport Corporation : 2014 (144) DRJ 422***, wherein the effect of reinstatement of employee with continuity of service was examined in the context of the Judgment passed by the Hon'ble Supreme Court in



Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalaya and Ors : (2013) 10 SCC 324 and it was held that direction to grant continuity means that the employee had to be given notional increments for the duration he remained out of service. Judgment of the Supreme Court in ***J.K. Synthetics Ltd. (supra)*** was also taken note of by the High Court.

12. The relevant extracts of the Judgment passed in Mahabir Prasad (supra) is reproduced as under:

“21. Consequently, it is held that the direction to grant continuity meant that the petitioner had to be given notional increments for the duration he was out of employment, in the grade and the equivalent grade which replaced it later, till he reached the end of the pay scale. Since there is no direction to give consequential benefits, the petitioner cannot claim promotion as a matter of right; it would have to be in accordance with the rules. ACP benefits however, should be given. The notional pay fixation would also mean that he would be entitled to reckon the period between his removal and reinstatement as having been in employment for pension, gratuity, and contributions to provident fund etc. This Court directs the DTC to issue an order extending these benefits to the petitioner for the 15 year period between his dismissal in 1995 and his eventual reinstatement in 2011, within eight weeks from today. The writ petition is allowed in these terms; there shall be no order as to costs.”

13. Keeping in view aforesaid position, the learned Central Administrative Tribunal (‘CAT’) erred in overlooking the fact that the Petitioner was ordered to be reinstated with continuity of service and the Judgment passed by the learned CAT is a result of misreading of order passed by the learned Labour Court.

14. The Respondents are directed to fix the pay of the Petitioner after giving him notional increments for the duration he was out of employment.

15. If in the meantime, the Grades have been revised, the Petitioner



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shall be placed in equivalent Grade.

16. This exercise should be completed within a period of two months from today.

17. Needless to observe that the Respondents will pay consequential retiral benefits flowing from re-fixation of pay.

ANIL KSHETARPAL, J

AMIT MAHAJAN, J

MARCH 16, 2026

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