



2026:DHC:8041



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 17th September, 2026***# **CNR No. DLHC011634872010**+ **W.P.(C) 8044/2010**

INDIAN OIL CORPORATION LTDPetitioner

Through: Ms. Prachi Vashisht and
Mr.Rajat Rana, Advocates.

versus

RAJ KUMARRespondent

Through: Ms. Monica Kapoor, Advocate.

CORAM:**HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present writ petition assails the Award dated 15.04.2010 (“**impugned award**”) passed by the learned Central Government Industrial Tribunal-cum-Labour Court-I, New Delhi, in I.D. No. 72/2007, whereby the learned Tribunal substituted the punishment of dismissal from service with the punishment of removal from service, along with retiral benefits.

2. Briefly stated, the respondent joined the services of the petitioner-Corporation in the year 1975 as a ‘*Khalasi*’. He was promoted as a ‘*Chargeman*’ in 1991 and was posted at the Shakur Basti Terminal.

3. The respondent was initially suspended *vide* order dated 05.10.1995. The said suspension was subsequently revoked on 07.10.1995, upon the respondent assuring the authorities of his good behaviour in future. However, the respondent was thereafter again placed under suspension, and a charge-sheet dated 09.08.1997 was



issued, alleging misconduct in relation to the incidents dated 07.07.1997. The charges, *inter alia*, alleged that the respondent had tampered with the attendance register by deleting the remarks made by his superior and had unauthorisedly marked his presence for the overtime shift with an intent to derive monetary benefit. It was further alleged that the respondent had forcibly taken the gate pass of tanker No. HYS-3328, obstructed its exit from the terminal and assaulted Shri Kalyan Chand, an employee of the Corporation.

4. A departmental enquiry was thereafter conducted against the respondent. The charges levelled against him were held to have been proved in the enquiry. The disciplinary authority, *vide* order dated 03.10.1998, dismissed the respondent from service.

5. Aggrieved by the same, the respondent preferred a writ petition before this Court, which was dismissed with liberty to the respondent to approach an appropriate forum.

6. Pursuant thereto, the respondent raised an industrial dispute against the petitioner before the Conciliation Officer, which was referred to the learned Labour Court *vide* order dated 22.10.2007 with the following terms of adjudication:

“Whether the action of the management in terminating the service of Sh. Raj Kumar w.e.f. 03.10.1998 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?”

7. On the basis of the pleadings, the learned Tribunal framed the following issues:

“1. Whether the enquiry conducted by the management was just and fair?”



2. *Whether the punishment awarded to the workman was commensurative to his misconduct?*
3. *As per reference?*
4. *Relief.*

8. By the impugned Award dated 15.04.2010, the learned Tribunal noted that the respondent had rendered 23 years of service and had also acquired a disability during the course of his service. Having regard to the facts and circumstances of the case, the learned Tribunal modified the punishment of dismissal from service to removal from service with retiral benefits.

9. Aggrieved thereby, the present petition.

10. The learned counsel for the petitioner submits that the respondent had, on two separate occasions, committed grave misconduct, which was found to be established by the learned Tribunal. Having upheld the findings of misconduct, the learned Tribunal erred in modifying the punishment imposed upon the respondent, despite the repeated misconduct.

11. *Per contra*, the learned counsel for the respondent submits that the allegations of misconduct are false and baseless; the respondent has worked for 23 years with honesty. She further places reliance upon the following judgments i) ***Karnataka State Road Transport v. B.M. Patil***, 1995 (5) KAR LJ 665 ii) ***Ram Kishan v. Union of India v. Union of India & Ors.***, 1995 SCC (6) 157.

12. I have heard both the parties and perused the material placed on record.



13. It is the case of the petitioner that the learned Tribunal has erred in substituting the punishment of removal to punishment of removal with retrial benefits.

14. It would be apposite to take note of the scope of the jurisdiction of the learned Tribunal under Section 11A of the Industrial Disputes Act, 1947. The provision empowers the Labour Court or Tribunal, where it is satisfied that the order of discharge or dismissal is not justified, to set aside the order and award a lesser punishment in lieu thereof, as the circumstances of the case may require.

15. The discretion conferred under Section 11A, however, is not unbridled and must be exercised having regard to the facts and circumstances of each case. The question to be considered by the learned Tribunal is whether, in the facts of the case, the punishment imposed is justified having regard to the degree of misconduct proved against the workman.

16. At the same time, while exercising jurisdiction under Article 226 of the Constitution, this Court exercises a supervisory jurisdiction and does not sit as an appellate Court over the decision of the learned Tribunal. The Court would not ordinarily re-appreciate the evidence or substitute its own view for that of the Tribunal unless the view taken is shown to be arbitrary or perverse. Where the view taken by the learned Tribunal is a plausible one, interference under Article 226 is not warranted merely because another view may also be possible.

17. In the present case, the learned Tribunal has not interfered with the findings recorded in the departmental enquiry. The charges against the respondent were held to have been proved, and the validity of the



enquiry is not shown to have been disturbed by the learned Tribunal. The interference was confined to the question of quantum of punishment.

18. While considering the quantum of punishment, the learned Tribunal took into account that the respondent had rendered 23 years of service with the petitioner and had acquired a disability during the course of his service. Although there were charges of misconduct in the past, the present charge-sheet pertained to a single charge. Having regard to the length of service, the disability acquired during service and the nature of the charge in the present proceedings, the learned Tribunal rightly modified the punishment of dismissal from service to removal from service, while granting retiral benefits. This Court finds that the relevant circumstances were duly considered by the learned Tribunal and the exercise of discretion in modifying the punishment cannot be said to be arbitrary or perverse.

19. To justify the exercise of discretion by the learned Tribunal, it may be noted that Section 11A of the Industrial Disputes Act, 1947, expressly empowers the learned Tribunal to interfere with the punishment where dismissal or discharge is found to be not justified in the facts and circumstances of the case. The exercise of such discretion, by itself, cannot be said to constitute an error of jurisdiction. Having regard to the circumstances, the learned Tribunal modified the punishment of dismissal from service to removal from service with retiral benefits. The exercise of discretion by the learned Tribunal cannot, therefore, be said to be arbitrary or perverse.



2026:DHC:8041



20. In the facts and circumstances of the present case, the view taken by the learned Tribunal is a plausible view based on the material and circumstances before it.

21. This Court, in exercise of its supervisory jurisdiction under Article 226 of the Constitution, would not substitute its own view merely because a different view on the quantum of punishment may be possible. No ground for interference with the impugned Award is, therefore, made out.

22. The Petition is therefore dismissed.

AMIT MAHAJAN, J

SEPTEMBER 17, 2026

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