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

Judgment reserved on: 29.01.2026

% ***Judgment delivered on: 23.05.2026***

\+ **LPA 217/2017**

RAMJI LAL & ORS .....Appellants

versus

DELHI TRANSPORT CORPORATION .....Respondent

AND

\+ **LPA 356/2022 & CM APPL. 25422/2022**

CHANDER PRAKASH AND ORS .....Appellants

versus

DELHI TRANSPORT CORPORATION .....Respondent

Advocates who appeared in these cases

For the Appellants : Mr. S. S. Sastry, Mr. Navin Kumar, Mr. Brijesh Tiwari and Mr. Umesh Kumar, Advocates in LPA 217/2017.
Mr. Jawahar Raja, Ms. L. Gangmei and Ms. Meghna De, Advocates in LPA 356/2022.

For the Respondent : Ms. Manisha Tyagi, Advocate.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. The present intra-court Appeals have been filed challenging the order dated 17.08.2016 ("**Impugned Order**") passed in W.P.(C) 4989/2016 and W.P.(C) 6948/2016s ("**Writ Petitions**") respectively, dismissing the same *in limine*.

FACTUAL MATRIX

2. The Appellants were among the Petitioners in the Writ Petitions, which came to be dismissed *in limine* by the learned Single Judge *vide* the Impugned Order, when the matters were listed for filing of reply/counter-affidavit by the Respondent.

3. The Appellants were appointed as Retainer Crew Conductors in the year 1985. Their names were sponsored through the Employment Exchange, Delhi, as required by the Respondent. Upon qualifying the written examination, medical examination, and interview, the Appellants were deputed for two months' practical training.

4. Upon completion of the training, the Appellants, along with the other Petitioners in the Writ Petitions, were posted at various depots of the Respondent and were paid wages at the rate of ₹28.91 per day. The Appellants also contributed towards the Provident Fund, Family Pension Scheme, Gratuity Fund, and ESI Scheme in the same manner as other regular employees of the Respondent.

5. According to the Appellants, the Respondent's Rules provided that the Retainer Crew Conductors were initially engaged on daily rates and were to be placed on monthly rates after six months. The Appellant contended that although the tenure of employment was temporary in the first instance,

it was liable to be made permanent as upon satisfactory completion of six months of service on daily rates, Retainer Crew Conductors were to be placed in the regular pay scale.

6. The Appellants, together with the other Petitioners in the Writ Petitions, continuously served the Respondent for a period of three years without interruption. Thereafter, the Respondent terminated the services of 503 Retainer Crew Conductors, including the Appellants, *vide* orders dated 14.05.1988 and 21.05.1988.

7. According to the Appellants, the Respondent failed to comply with the mandatory requirements of the applicable law, including Sections 25F and 25G of the Industrial Disputes Act, 1947 ("**ID Act**"). The Appellants further contended that the orders in question described the termination as 'retrenchment' and also purported to pay wages in lieu of notice period and retrenchment compensation.

8. Aggrieved by the Respondent's action in terminating the services of the Retainer Crew Conductors, an industrial dispute was raised by 377 out of the 503 Retainer Crew Conductors, including the Appellants. The dispute was referred to the Labour Court for adjudication on whether the termination of the services of the Retainer Crew Conductors was illegal and/or unjustified and, if so, the reliefs to which they were entitled and the consequential directions required in that regard.

9. In the Statement of Claim, it was contended, *inter alia*, that the termination was illegal and amounted to an unfair labour practice. It was further asserted that no seniority list had been displayed and that juniors to the retrenched Retainer Crew Conductors had been brought on monthly rates and regularised.

10. In the Reply filed by the Respondent Management to the Statement of Claim, it was contended that the employment of the Appellants was purely temporary and that their services were dispensed with in accordance with the terms of their employment and the applicable Executive Instructions.

11. In July 1998, during the pendency of the industrial dispute before the Labour Court, the Respondent, in compliance with Section 25H of the ID Act, re-employed several persons who had raised the industrial dispute except the Appellants.

12. Thereafter, the parties filed their respective affidavits by way of evidence, and the Respondent contended that the Appellants had become surplus on account of a reduction in the fleet of buses and that, consequently, their services were dispensed with in terms of the conditions accepted by them.

13. After examining the rival contentions and evidence led on behalf of the parties, the Labour Court delivered the Award dated 20.01.2016 ("**Award**") holding that the termination constituted a discharge simpliciter falling within the ambit of Section 2(oo)(bb) of the ID Act and not retrenchment. Consequently, the claim of the Appellants came to be dismissed.

14. Aggrieved by the Award, the Appellants instituted the Writ Petitions before the learned Single Judge. Notice in the said Writ Petitions was issued *vide* orders dated 27.05.2016 and 09.08.2016 in W.P.(C) 4989/2016 and W.P.(C) 6948/2016, respectively, and the Respondent was directed to file its reply.

15. No reply was filed by the Respondent within the time granted. On 17.08.2016, when the Writ Petitions were taken up by the learned Single

Judge, arguments were heard and the petitions were dismissed *vide* the Impugned Order.

16. Aggrieved by the Impugned Order, the Appellants have preferred the present Appeals.

SUBMISSIONS ON BEHALF OF THE APPELLANTS

17. The learned Counsel for the Appellants has made the following submissions:

17.1 The learned Single Judge dismissed the Writ Petitions without adverting to the contention that the Appellants had not accepted re-employment and were seeking reinstatement.

17.2 The termination order itself records that the Appellants were retrenched and that retrenchment compensation together with wages in lieu of notice were paid to them. Notwithstanding the same, the learned Single Judge erroneously held that the termination of engagement of the Appellants did not amount to retrenchment.

17.3 During cross-examination, the Management witness admitted that the Appellants had been retrenched and that retrenchment compensation as well as wages in lieu of notice had been paid to them.

17.4 The learned Single Judge failed to advert to the termination order, wherein the cessation of service was expressly described as retrenchment, and the Impugned Order did not consider the admissions made by the Respondent's witnesses.

17.5 Although the learned Single Judge concluded that the Petitioners' engagement had been terminated on the ground that

they were rendered surplus, it was nevertheless erroneously held in the Impugned Order that such termination amounted to discharge simpliciter and not retrenchment.

17.6 The Impugned Order is contrary to the settled position of law laid down by the Supreme Court, namely, that termination of workmen on the ground of surplusage constitutes retrenchment and not discharge simpliciter.

17.7 In terms of the law declared by the Supreme Court, Section 2(oo)(bb) of the ID Act is confined to tenure-based or project-based employment. Further, the work discharged by the Appellants was of a permanent nature and, therefore, Section 2(oo)(bb) of the ID Act had no application to the facts of the present case.

17.8 The learned Single Judge erroneously disregarded the unrebutted and unimpeached evidence/material on record and concluded that there had been a reduction in the fleet of buses operated by the Respondent.

17.9 The learned Single Judge failed to appreciate that a mere assertion does not constitute proof of a fact and that the same was required to be established by cogent evidence. The burden was upon the Respondent to prove that there had been a reduction in the fleet of buses. The learned Single Judge further failed to note that no evidence was adduced by the Respondent to establish any such reduction at the relevant time.

17.10 The Appellants produced cogent evidence, including a report, demonstrating that at the relevant time there was no reduction in

the Respondent's fleet of buses and that, on the contrary, the fleet had increased. The learned Single Judge failed to appreciate this unrebutted evidence, which was sufficient to support the contention that the termination of the Appellants amounted to an unfair labour practice.

17.11 The Impugned Order does not advert to any of the evidence brought on record by the Appellants and instead proceeds upon the submissions advanced on behalf of the Respondent to arrive at its findings.

17.12 The decisions relied upon in the Impugned Order are distinguishable on facts and were, therefore, erroneously applied by the learned Single Judge to the present case.

18. In view of the above, it was prayed that the Impugned Order be quashed and set aside.

SUBMISSIONS ON BEHALF OF RESPONDENT

19. The learned Counsel for the Respondent submitted that:

19.1 The Appellants were appointed on daily wages in terms of their appointment letters, and their services were dispensed with in accordance with the applicable Service Rules. Since the cessation of the Appellants' temporary engagement, no person has been appointed to the regular post of Retainer Crew Conductor.

19.2 The appointment to a regular post required due sanction and, in the absence of such sanction, the Respondent Management was not competent to appoint the Appellants against regular posts.

19.3 The duties assigned to the temporary employees were performed as and when required, and remuneration was paid on a daily

basis. On that basis, the Appellants' engagement was purely temporary and that their services were dispensed with in accordance with the Service Rules and the terms of their letters of appointment.

ANALYSIS OF THE AWARD

20. The learned Labour Court, after considering the submissions advanced by the parties and examining the evidence on record, concluded that the Appellants were not entitled to any relief and, accordingly, dismissed the Statement of Claim.

21. The learned Labour Court examined the oral evidence adduced on behalf of the Appellants as well as the letters of appointment containing the terms and conditions governing their service. The Award specifically noted two stipulations, namely: (i) that the Appellants would be paid ₹20.90 per day only for the days on which duty was actually performed; and (ii) that their appointments were purely temporary and their services were liable to be terminated without notice and without assigning any reason.

22. The Award further records that, prior to the commencement of the two months' practical training, the Respondent Management had stipulated that, upon successful completion of the training and the prescribed tests, the names of the candidates would be placed on a waiting list in order of merit and seniority, and employment would be offered to them as and when their turn arose for appointment to the post of Retainer Crew Conductor. It was also clarified by the Respondent that there was no assurance whatsoever of employment and that no claim in that regard could be maintained by any person.

23. The Award also examined the Executive Instructions governing the daily-rated operational crew of the Buses Division, which classified employees under the categories of Regular (Permanent), Probationary, Temporary, and Casual.

24. The Award further set out the terms and conditions governing the employment of Retainer Drivers and Conductors as contained in the Executive Instructions and concluded that, in terms of the contractual stipulations, the services of the Appellants were liable to be terminated at any time without assigning any reason, thereby attracting the second part of Section 2(oo)(bb) of the ID Act.

25. The Award also observed that the mere deduction of amounts from the wages of the Appellants towards PF and ESI would not, by itself, confer upon them the status of regular employees, particularly in the absence of any document on record to establish that they had first been placed on monthly rates and had thereafter undergone a period of probation culminating in regularisation. It was further noted that, at the time their services were terminated, the Appellants were still working as daily wagers.

26. The Award held that the payment of certain amounts by the Management to the Appellants at the time of termination did not partake the character of retrenchment compensation, since the cessation of their services did not amount to retrenchment but had occurred in accordance with the terms of the contract of service and the second limb of Section 2(oo)(bb) of the ID Act.

27. Accordingly, the Award concluded that there was no illegality in the termination of the services of the Appellants by the Respondent.

ANALYSIS OF THE IMPUGNED ORDER

28. The learned Single Judge, in the Impugned Order, held that there was no infirmity in the conclusion arrived at in the Award and, accordingly, dismissed the Writ Petitions.

29. The learned Single Judge further observed that, having regard to the evidence adduced by the Respondent, there existed surplus staff on account of a reduction in the size of the Respondent's bus fleet and that, consequently, the Appellants, who had initially been engaged in service for a larger fleet, became surplus. It was, therefore, held that the conclusion in the Award with respect to surplus staff arising from the reduction in the Respondent's fleet of buses could not be faulted.

30. The learned Single Judge also observed that the Labour Court, after examining the terms and conditions of employment, particularly the categories of employees maintained on the Respondent's muster roll under the Executive Instructions, had concluded that the Appellants were casual employees. Accordingly, it was held that even if the contract of employment was terminated without assigning any reason, such termination could not be regarded as retrenchment.

31. The learned Single Judge further held that mere confirmation in employment would not clothe an employee with the rights of a permanent employee and that, therefore, either upon the expiry of the contractual tenure or upon termination of services in accordance with the terms of the contract, such cessation of service would not amount to retrenchment.

32. Accordingly, the Writ Petitions came to be dismissed.

ANALYSIS AND FINDINGS

33. We have carefully considered the submissions made on part of the Parties in both these Appeals as well as the Award and the Impugned Order. We have also perused to material available on record.

34. The Appellants were engaged by the Respondents as Retainer Crew Conductors in the year 1985 on daily wages though the Employment Exchange, Delhi and their services were terminated in May 1988 after working for about three years.

35. At the time of offering the employment to the Appellants, it was made clear by the Respondents that the Appellants would be paid the stipulated daily wages only for the days on which duty was actually performed by them and their appointments were purely temporary in nature, which were liable to be terminated without notice or without assigning any reason.

36. Upon qualifying the written examination, medical examination, and interview, the Appellants were deputed for two months' practical training. Prior to the commencement of the practical training, it was made clear that, upon successful completion of the training and the prescribed tests, the names of the candidates would be placed on a waiting list in order of merit and seniority, and employment would be offered to them as and when their turn arose for appointment to the post of Retainer Crew Conductor. It was further clarified by the Respondent that there was no assurance whatsoever of employment and that no claim in that regard could be maintained by any person.

37. Although the Appellants have contended that the Respondent's Rules provided that Retainer Crew Conductors were initially engaged on daily rates and were to be placed on monthly rates after six months, the same is

not borne out from the record. The further contention of the Appellants that, although the tenure of employment was temporary in the first instance, it was liable to be made permanent upon satisfactory completion of six months of service on daily rates is also not evidence from by the terms and conditions stipulated by the Respondent at the time of engagement and prior to the commencement of the training.

38. According to the Appellants, the Respondent failed to comply with the mandatory requirements of the applicable law, including Sections 25F and 25G of the ID Act. The Appellants further contended that the orders in question described the termination as 'retrenchment' and also purported to pay wages in lieu of notice period and retrenchment compensation.

39. However, the learned Labour Court has held that merely paying the compensation at the time of termination does not make the termination as retrenchment. The learned Single Judge has also upheld the Award by confirming that the termination of services in terms of the Contract would not amount to retrenchment.

40. As regards the submission of the Appellants that Section 24F and Section 25G of the ID Act were not complied with by the Respondent, the learned Labour Court has relied upon Section 2(oo)(bb) of the ID Act which provides as under:

> *"2.* ***Definitions.—****In this Act, unless there is anything repugnant in the subject or context,—*
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> *** *** ***
>
> *(oo) "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—*
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> *** *** ***

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein;"

41. The above provision shows that the services of the Appellants were terminated in accordance with the second limb of Section 2(oo)(bb) of the ID Act as held by the learned Labour Court thereby concluding that there was no illegality in the termination of services of the Appellants by the Respondent. In view of the same, we are of the view that the provisions of ID Act were not applicable to the facts of the present case.

42. Having examined the oral evidence adduced on behalf of the Appellants as well as considering the letters of appointment containing the terms and conditions governing their service, the learned Labour Court held that the Appellants were daily wagers, and their appointment was purely temporary in nature. Therefore, the services of the Appellant could be terminated without notice and without assigning any reason.

43. The Award has held that prior to the commencement of the two months' practical training, the Respondent Management had stipulated that upon successful completion of the training and the prescribed tests, the names of the candidates would be placed on a waiting list in order of merit and seniority, and employment would be offered to them as and when their turn arose for appointment to the post of Retainer Crew Conductor. It was also clarified by the Respondent that there was no assurance whatsoever of employment and that no claim in that regard could be maintained by any person. Thus, the Appellants were fully aware about the terms of the employment prior to commencement of the training.

44. The Award also examined the Executive Instructions governing the daily-rated operational crew of the Buses Division, which classified employees under the categories of Regular (Permanent), Probationary, Temporary, and Casual and set out the terms and conditions governing the employment of Retainer Drivers and Conductors as contained in the Executive Instructions and concluded that, in terms of the contractual stipulations, the services of the Appellants were liable to be terminated at any time without assigning any reason, thereby attracting the second part of Section 2(oo)(bb) of the ID Act.

45. In view of the above, the learned Labour Court, after considering the submissions advanced by the parties and examining the evidence on record, concluded that the Appellants were not entitled to any relief and, accordingly, passed the Award rejecting the prayers in the Statement of Claim filed by the Appellants.

46. The learned Single Judge dismissed the Writ Petition filed challenging the Award considering the evidence adduced by the Respondent. It is observed in the Impugned Order that the excess staff on account of a reduction in the size of the Respondent's bus fleet was established and that, consequently, the Appellants, who had initially been engaged in service for a larger fleet, became surplus. Therefore, the Award was upheld with respect to surplus staff arising from the reduction in the Respondent's fleet of buses. The learned Single Judge also observed that the Labour Court, after examining the terms and conditions of employment, particularly the categories of employees maintained on the Respondent's muster roll under the Executive Instructions, had concluded that the Appellants were casual employees. Accordingly, it was held that even if the

contract of employment was terminated without assigning any reason, such termination could not be regarded as retrenchment.

47. The learned Single Judge further held that mere confirmation in employment would not clothe an employee with the rights of a permanent employee and that, therefore, either upon the expiry of the contractual tenure or upon termination of services in accordance with the terms of the contract, such cessation of service would not amount to retrenchment.

48. We are of the considered opinion that both the Award as well as Impugned Order have examined the evidence and submissions made on behalf of the Parties and come to conclusion that the termination of the services of the Appellants was not retrenchment under the provisions of the ID Act. Taking into consideration the terms of the employment, the conclusion arrived at by the learned Labour Court and the learned Single Judge regarding the termination of the services of the Appellant is justified. The concurrent finding of the learned Labour Court and the learned Single Judge clearly provide that the Appellants were daily wagers and the termination of the serves was in accordance with the terms of the contract.

49. Therefore, we do not find any infirmity with the Impugned Order, which is hereby upheld. The present Appeals are consequently dismissed. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

MAY 23, 2026/sms