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

*Reserved on: 16<sup>th</sup> January, 2026*  
*Date of Decision: 12<sup>th</sup> February, 2026*  
*Uploaded on: 13<sup>th</sup> February, 2026*

+ W.P.(C) 6398/2017 & CM APPL. 26448/2017

DELHI TRANSPORT CORPORATION .....Petitioner

Through: Mr. L.K. Passi & Ms. Ruby, Advs.

versus

RAM DHARI SINGH .....Respondent

Through: Ms. Amita Singh Kalkal, Adv.

**CORAM:**

**HON'BLE MS. JUSTICE SHAIL JAIN**

**JUDGMENT**

**SHAIL JAIN, J**

1. The present Writ Petition has been filed by the Petitioner, **Delhi Transport Corporation**, under Articles 226 and 227 of the Constitution of India, assailing the Award dated 8<sup>th</sup> July, 2016 (*hereinafter referred to as the "Impugned Award"*) passed by the learned Presiding Officer, POLC-XVII, Karkardooma Court, Delhi (*hereinafter referred to as the "Labour Court"*) in LIR No. 6809/16, arising out of an industrial dispute between the petitioner - Management/Delhi Transport Corporation (*hereinafter referred to as "DTC"*) and the respondent-workman, Sh. Ram Dhari Singh.

**FACTUAL BACKGROUND**

2. The brief factual matrix as emerging from the record shows that the Respondent-workman, Sh. Ram Dhari Singh, was appointed as a Conductor



on permanent post with the DTC in the year 1985 and continued in service until his termination on 29<sup>th</sup> August, 2003.

3. A Charge-Sheet dated 23<sup>rd</sup> July, 2001 was issued to the Respondent for being unauthorizedly absent from duty w.e.f. 7<sup>th</sup> April, 2001 to 23<sup>rd</sup> July, 2001. Prior thereto, letters dated 19<sup>th</sup> April, 2001, 4<sup>th</sup> May, 2001 and 24<sup>th</sup> May, 2001 were dispatched directing him either to report for duty or, in case of illness, to appear before the DTC Medical Board at I.P. Depot for examination. It is the case of the Petitioner that the Respondent neither reported for duty nor appeared before the Medical Board. Consequently, *vide* Order dated 31<sup>st</sup> December, 2001, a domestic enquiry was instituted. The enquiry was conducted on 4<sup>th</sup> February, 2002.

4 As per the enquiry proceedings, the Enquiry Officer read over and explained the contents of the Charge-Sheet to the Respondent. The Respondent acknowledged receipt of the Charge-Sheet and the report forming the basis thereof. He declined assistance of a co-worker or labour welfare inspector and stated that he would defend himself. The Respondent admitted the charge of unauthorized absence during the course of the domestic enquiry. It is further recorded in the enquiry proceedings that, in his defence, he stated that he could not report for duty on account of illness. The Enquiry Officer submitted his findings dated 7<sup>th</sup> February, 2002 holding the charge proved.

5 After receipt of the enquiry report, the Disciplinary Authority issued a Show-Cause Notice dated 4<sup>th</sup> July, 2003 proposing the penalty of removal from service. The Respondent submitted his reply dated 13<sup>th</sup> August, 2003. Upon consideration of the enquiry record, the reply to the Show-Cause Notice, and the past service record, the Disciplinary Authority imposed the



penalty of removal from service *vide* order dated 29<sup>th</sup> August, 2003.

6. The Petitioner has placed reliance upon the past service record of the Respondent, which reflects multiple instances of such unauthorized absence. It is stated that the Respondent had been subjected to several punishments in the past, including censure, stoppage of increments with cumulative effect, and reduction in time scale, on account of similar misconduct. Aggrieved by the order of removal, the Respondent raised an industrial dispute. *Vide* Order No. F.24(951)/06/Lab./6075-79, dated 8<sup>th</sup> August, 2007, issued by the Government of NCT of Delhi, the following question was referred for adjudication before the Labour Court:

*“Whether the punishment of removal from service imposed upon Sh. Ram Dhari Singh S/o Sh. Mehanti Singh by the management vide order dated 29.08.2003 is illegal and/or unjustified, and if so, to what sum of money as monetary relief along with other consequential benefits in terms of existing Laws/Govt. notifications and what other relief is he entitled and what directions are necessary in this respect ?”*

7. The Labour Court framed two issues for consideration: **First**, whether the domestic enquiry was fair and in accordance with the principles of natural justice; and **Second**, whether the punishment of removal was legal and justified. By Order dated 19<sup>th</sup> May, 2016, the Labour Court upheld the domestic enquiry, holding that the Enquiry Officer had not violated any principle of natural justice and that the findings recorded in the enquiry report were not perverse. While deciding the Second issue, the Labour Court held that the charge of unauthorized absence was proved and that the removal was not illegal. However, taking into account the Respondent's length of service, the Labour Court exercised its powers under Section 11-A



of the Industrial Disputes Act, 1947 (*hereinafter referred to as "ID Act,1947"*) and modified the punishment to deemed retirement with consequential retiral benefits.

8. Aggrieved by the modification of punishment despite findings in its favour on the issue of enquiry and misconduct, the petitioner has approached this Court under Articles 226 and 227 of the Constitution of India.

9. During the pendency of the present petition, this Court, *vide* order dated 20<sup>th</sup> September, 2017, stayed the operation of the impugned Award subject to the petitioner depositing 50% of the awarded amount with the Registrar General of this Court.

#### **SUBMISSIONS ON BEHALF OF PARTIES**

10. Learned counsel for the Petitioner submits that the impugned Award warrants interference, as the learned Labour Court, despite deciding both issues in favour of the Management, has erroneously modified the punishment.

11. In elaboration of the aforesaid submission, it is contended that the Respondent was Charge-Sheeted on 23<sup>rd</sup> July, 2001 for remaining unauthorizedly absent from duty for the period from 7<sup>th</sup> April, 2001 to 23<sup>rd</sup> July, 2001. Despite repeated communications directing him to report for duty or to appear before the Medical Board, and notwithstanding due service of the Charge-Sheet and subsequent reminders, the Respondent failed to submit any written reply. However, during the course of the domestic enquiry, the Respondent admitted the charge of unauthorized absence. A regular domestic enquiry was conducted in which the charge stood admitted. Upon consideration of the enquiry report, the Show-Cause Notice and the Respondent's reply, the Disciplinary Authority imposed the penalty of



removal from service by order dated 29<sup>th</sup> August, 2003.

12. It is further submitted in this regard that the misconduct was not isolated but part of a consistent pattern. The Respondent's service record reflects more than eight adverse entries and at least four major punishments, including censure, stoppage of increments with cumulative effect and reduction in time scale. Despite repeated disciplinary action, his conduct did not improve. The penalty of removal was thus imposed after due consideration of his habitual absence and adverse record.

13. In continuation thereof, learned counsel for the petitioner submitted that the Labour Court, *vide* order dated 19<sup>th</sup> May, 2016, upheld the validity of the enquiry and found the charge proved, holding that there was no illegality in the removal. Having so held, it erred in modifying the punishment solely on the ground of length of service.

14. In support of the aforesaid contentions, reliance is placed on ***Bharat Bhushan v. Delhi Transport Corporation***, WP(C) No. 1771/2008, and ***Indian Iron & Steel Co. Ltd. v. Their Workmen***, AIR 1958 SC 130, to contend that habitual unauthorized absence reflects lack of devotion to duty and justifies strict disciplinary action. It is submitted that mere length of service cannot outweigh repeated misconduct, particularly where earlier punishments failed to yield improvement.

15. In view of the above submissions, it is urged that once the enquiry and findings were upheld and the past record demonstrated habitual negligence, interference under Section 11-A of the ID Act, 1947 was unwarranted. The impugned Award, insofar as it modifies the penalty to deemed retirement with consequential benefits, is therefore liable to be set aside.

16. On the other hand, learned counsel for the Respondent submits that



the present Writ Petition is devoid of merit and does not warrant interference under Articles 226 and 227 of the Constitution of India. It is contended that the Labour Court, having upheld the validity of the domestic enquiry and the finding of misconduct, rightly exercised its powers under Section 11-A of the ID Act, 1947.

17. In furtherance of his submissions, it is submitted that although the charge of unauthorized absence was held proved, the Labour Court noted that the Respondent had rendered approximately 18 years of service and that such length of service was not considered while imposing the penalty of removal. On that basis, the punishment was held disproportionate and modified to be deemed retirement. According to the Respondent, the said exercise of discretion is within jurisdiction and does not suffer from perversity.

18. In support of the said contention, it has further submitted that the issue is covered by the decision of this Court in ***DTC v. Ranbir Singh, 2023 DHC (W.P.(C) 6392/2017***), wherein in similar circumstances the modification of removal to compulsory retirement, taking into account long years of service, was upheld. It is contended that the present case stands on identical footing and, therefore, no interference is called for.

19. The Respondent submits that his absence was due to illness and that relevant medical certificates were placed on record. It is contended that neither his medical explanation nor his 18 years of service were properly taken into account before the penalty of removal was imposed.

20. Reliance is also placed, in this context, on the decision of this Court in ***Raxa Security Services Ltd. v. Sagar Kumar Mandal, 2023 DHC (W.P. (C) 8942/2023***), and on the judgment of the Hon'ble Supreme Court in



**D.K. Yadav v. J.M.A. Industries Ltd., (1993) 3 SCC 259**, to submit that termination of service has serious civil consequences and that proportionality and fairness must inform disciplinary action.

21. In culmination of the aforesaid submissions, it is, therefore, contended on behalf of the Respondent that he is not challenging the impugned Award; rather, he supports the Award dated 8<sup>th</sup> July, 2016 and submits that the Labour Court has exercised its discretion under Section 11-A of the ID Act, 1947 in accordance with settled principles of law. It is further urged that the present Writ Petition essentially seeks a re-evaluation of the proportionality of punishment, which falls outside the limited scope of supervisory jurisdiction under Articles 226 and 227 of the Constitution of India.

### **ISSUE FOR CONSIDERATION**

22. Whether, after upholding the validity of the domestic enquiry and affirming that the charge of unauthorized absence stood proved, the Labour Court was justified in exercising its powers under Section 11-A of the ID Act, 1947 to modify the penalty of removal from service imposed *vide* order dated 29<sup>th</sup> August, 2003 to that of deemed retirement with consequential retiral benefits?

### **ANALYSIS AND FINDINGS**

23. At the outset, it is necessary to note that the jurisdiction of this Court under Articles 226 and 227 of the Constitution is supervisory and not appellate. This Court does not re-appreciate evidence or substitute its own view on facts. Interference is warranted only where the Adjudicating Authority has acted without or in excess of jurisdiction, or where the impugned Award suffers from patent illegality, perversity, or misapplication of settled principles. In the context of Section 11-A of the ID Act, 1947, the



Labour Court may substitute the penalty only upon recording a finding that the punishment is shockingly disproportionate to the proved misconduct or that mitigating circumstances exist. In the absence of such a finding, the exercise of discretion travels beyond the limits of the statute and would warrant interference in exercise of writ jurisdiction.

24. The adjudication before the Labour Court proceeded in two parts. The following issues were framed for determination:

- i) Whether the enquiry conducted against the workman in terms of charge sheet dt. 23.07.2001 was not just, fair, proper and was not in accordance with the principles of natural justice, if so its effect? OP*
- ii) As per terms of reference.*

25. The Labour Court addressed the preliminary issue concerning the validity of the domestic enquiry conducted pursuant to the Charge-Sheet dated 23<sup>rd</sup> July, 2001 relating to unauthorized absence from 7<sup>th</sup> April, 2001 to 23<sup>rd</sup> July, 2001. The enquiry proceedings dated 4<sup>th</sup> February, 2002 were examined in this regard.

26. The Labour Court recorded that the workman had duly acknowledged receipt of the Charge-Sheet along with the accompanying report and had signed the enquiry proceedings, thereby effectively negating the plea of non-supply of documents. It is further noted that the Enquiry Officer had offered the workman the assistance of a co-worker or Labour Welfare Inspector, which was declined by him, and that representation through an advocate is not contemplated in domestic enquiries. The allegation that the admission of guilt had been obtained under coercion was disbelieved, as the Charge-Sheet had been read over and explained to the workman prior to recording his admission and no contemporaneous complaint was lodged. The Labour



Court also found that no medical document pertaining to the relevant period of absence was produced before the Enquiry Officer and that the documents subsequently relied upon related to a later period and were therefore irrelevant.

27. On the basis of the aforesaid discussion, the Labour Court answered the preliminary issue in favour of the management in the following terms:

*“In view of above discussion, the enquiry issue is decided in favour of management and against claimant by holding that Enquiry Officer had not violated any principle of natural justice and that his report is not perverse.”*

The Labour Court thus upheld the enquiry as fair and proper and found no infirmity in the report of the Enquiry Officer.

28. Having upheld the enquiry, the Labour Court proceeded to consider Issue No. 2 relating to the legality and proportionality of the punishment. The workman attributed his absence to illness. The management, however, relied upon the admitted fact that the workman had remained unauthorizedly absent from 7<sup>th</sup> April, 2001 to 23<sup>rd</sup> July, 2001 despite repeated directions to report for duty or appear before the Medical Board, and further relied upon his adverse past service record. The Labour Court recorded that the charge of unauthorized absence stood proved and that the workman had been punished on several earlier occasions for similar misconduct.

29. In support of its finding that habitual unauthorized absence reflects lack of devotion to duty and warrants disciplinary action, the Labour Court placed reliance upon *Bharat Bhushan v. Delhi Transport Corporation (W.P.(C) No. 1771/2008)*, decided on 25<sup>th</sup> October, 2010, wherein it was held as follows:



16. In the case of *DTC v. Sardar Singh* 2004 SCC (L&S) 946, the Apex Court at page 950 in para 9 has observed as under:

**9. When an employee absents himself from duty, even without sanctioned leave for a very long period, it prima facie shows lack of interest in work. Para 19(h) of the Standing Orders as quoted above, relates to habitual negligence of duties and lack of interest in the authority's work. When an employee absents himself from duty without sanctioned leave, the authority can, on the basis of the record, come to a conclusion about the employee being habitually negligent in duties and an exhibited lack of interest in the employer's work. Ample material was produced before the Tribunal in each case to show as to how the employees concerned were remaining absent for long periods which affects the work of the employer and the employee concerned was required at least to bring some material on record to show as to how his absence was on the basis of sanctioned leaves and as to how there was no negligence. Habitual absence is a factor which establishes lack of interest in work. There cannot be any sweeping generalization. But at the same time some telltale features can be noticed and pressed into service to arrive at conclusions in the departmental proceedings.**

17. In the case of *Indian Iron Steel Company Vs. Their Workmen*, AIR 1958 SC 130, it was held:

“Mere fact that the workman applied for leave is no ground for excusing him when the leave was refused.”

**18. In view of the settled law as well as on the facts and circumstances in the matter, I am of the considered view that the Tribunal was justified by not interfering with the punishment imposed by the respondent and this Court does not find any valid ground mentioned in the writ petition to interfere with the same. The writ petition is dismissed. No orders as to cost.**

...[emphasis supplied]



30. This Court takes note of the fact that the Petitioner–Corporation is a public transport undertaking discharging essential public functions. Unauthorized absence of operational staff such as Conductors has a direct bearing on service delivery and public convenience. In such an organisation, operational discipline maintains a direct nexus with public interest and service continuity. Prolonged unauthorized absence, therefore, cannot be regarded as a mere private lapse devoid of institutional consequence.

31. Notwithstanding the proved misconduct and the adverse past record, the Labour Court, taking into account that the respondent had rendered approximately 18 years of service, held the punishment of removal to be *slightly disproportionate* and modified it to that of deemed retirement with consequential retiral benefits and interest.

32. The operative portion of the Award reads as follows:

*“Taking into account 18 years length of service of the claimant, the order dated 29.08.2003 passed by the management for terminating him from service is slightly modified to the extent that the claimant shall be deemed to have retired on 29.08.2003. All retiral and consequential benefits like pension (if he had opted for the same) and others be given to him. The management is directed to pay the said benefits to the claimant within a month from the date of publication of the award failing which it shall be liable to pay interest @ 9 per cent per annum from today till realization. Award is passed accordingly.”*

*...[emphasis supplied]*

33. The Labour Court, having upheld the validity of the domestic enquiry and recorded a categorical finding that the Respondent remained unauthorizedly absent from 7<sup>th</sup> April, 2001 to 23<sup>rd</sup> July, 2001, and having



also considered his adverse past service record, those findings have not been independently assailed before this Court. The Respondent has neither challenged the order affirming the enquiry nor demonstrated any perversity, absence of evidence, or jurisdictional infirmity in the finding of misconduct. The finding of proved misconduct has thus attained finality.

34. In these circumstances, the only question that arises for consideration is whether the Labour Court was justified in interfering with the punishment of removal in exercise of its power under Section 11-A of the ID Act, 1947, and substituting the same with deemed retirement along with consequential retiral benefits.

35. Section 11A of the ID Act, 1947 reads as under:

*[11.A. Powers of Labour Courts, Tribunal and National Tribunal to give appropriate relief in case of Discharge or dismissal of workman.- Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal and National Tribunal for adjudication proceeding, **the Labour Court, Tribunal and National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require;** Provided that in any proceeding under this section the Labour Court, Tribunal and National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation on the matter]*

*...[emphasis supplied]*

36. A plain reading of Section 11-A of the ID Act, 1947 shows that where an industrial dispute relating to discharge or dismissal is referred



for adjudication, the Labour Court is empowered, if it is satisfied that the order of discharge or dismissal is “**not justified**”, to set aside such order and grant appropriate relief, including reinstatement or award of a lesser punishment. The provision, however, does not in express terms lay down the criteria for determining when a punishment is to be regarded as “not justified”. The parameters governing the exercise of this power have, therefore, been structured through authoritative judicial interpretation.

37. It is well settled that the expression “not justified” in Section 11-A of the ID Act, 1947 does not confer unrestricted appellate power upon the Labour Court. The Hon’ble Supreme Court has consistently held that even where the domestic enquiry is fair and misconduct stands proved, interference with punishment is warranted only if it is so disproportionate to the gravity of the misconduct as to shock the conscience of the Court, or where legally relevant mitigating circumstances exist. The Labour Court must record cogent reasons demonstrating such disproportion. Mere substitution of its own view on grounds of sympathy or leniency is impermissible.

38. In light of the above settled principles governing the scope of interference under Section 11-A of the ID Act, 1947, the legal position is no longer *res integra*. In ***Bharat Forge Co. Ltd. v. Uttam Manohar Nakate***, (2005) 2 SCC 489, and ***M.P. Electricity Board v. Jagdish Chandra Sharma***, (2005) 3 SCC 401, the Hon’ble Supreme Court has held that the power under Section 11-A (or analogous provisions) cannot be exercised on irrational, extraneous, or merely compassionate considerations. Although the Labour Court has jurisdiction to interfere with the quantum of punishment, such discretion must be exercised



judiciously and within settled parameters. Interference is permissible only where the punishment is wholly or shockingly disproportionate to the gravity of the proved misconduct. The principle was reiterated in *J.K. Synthetics Ltd. v. K.P. Agrawal*, (2007) 2 SCC 433, in the following terms:

*27. In this case, we have already found that the charge established against the employee was a serious one. The Labour Court did not record a finding that the punishment was harsh or disproportionately excessive. It interfered with the punishment only on the ground that the employee had worked for four years without giving room for any such complaint. It ignored the seriousness of the misconduct. That was not warranted. The consistent view of this Court is that in the absence of a finding that the punishment was shockingly disproportionate to the gravity of the charge established, the Labour Court should not interfere with the punishment. We, therefore, hold that the punishment of dismissal did not call for interference.*"

*...[emphasis supplied]*

39. The principle was authoritatively reaffirmed in *L&T Komatsu Ltd. v. N. Udayakumar*, (2008) 1 SCC 224, where the Hon'ble Supreme Court reversed interference with dismissal in a case where the workman had remained absent on several occasions and had been found guilty of habitual absenteeism. The Court held that although Section 11-A of the ID Act, 1947 vests discretion in the Labour Court to interfere with punishment, such discretion is not unbridled and must be exercised strictly within settled judicial parameters. Interference is permissible only where the punishment is wholly or shockingly disproportionate to the degree of guilt of the workman concerned. The Tribunal must record reasons in support of such



conclusion. While reiterating these limits on the exercise of discretion under Section 11-A of the ID Act, 1947, the Court placed reliance on *LIC of India v. R. Dhandapani*, (2006) 13 SCC 613, observing as under:

9. In *LIC of India v. R. Dhandapani* [(2006) 13 SCC 613 : AIR 2006 SC 615], it was held as follows;

**“It is not necessary to go into detail regarding the power exercisable under Section 11-A of the Act. The power under said Section 11-A has to be exercised judiciously and the Industrial Tribunal or the Labour Court, as the case may be, is expected to interfere with the decision of a management under Section 11-A of the Act only when it is satisfied that punishment imposed by the management is wholly and shockingly disproportionate to the degree of guilt of the workman concerned. To support its conclusion the Industrial Tribunal or the Labour Court, as the case may be, has to give reasons in support of its decision. The power has to be exercised judiciously and mere use of the words ‘disproportionate’ or ‘grossly disproportionate’ by itself will not be sufficient.** In recent times, there is an increasing evidence of this, perhaps well-meant but wholly unsustainable, tendency towards a denudation of the legitimacy of judicial reasoning and process. The reliefs granted by the courts must be seen to be logical and tenable within the framework of the law and should not incur and justify the criticism that the jurisdiction of the courts tends to degenerate into misplaced sympathy, generosity and private benevolence. It is essential to maintain the integrity of legal reasoning and the legitimacy of the conclusions. They must emanate logically from the legal findings and the judicial results must be seen to be principled and supportable on those findings. Expansive judicial mood of mistaken and misplaced compassion at the expense of the legitimacy of the process will eventually lead to mutually irreconcilable situations and denude the judicial process of its dignity, authority, predictability and respectability. (See *Kerala Solvent Extractions Ltd. v. A. Unnikrishnan* [(1994) 1 Scale 631] .) **Though under Section 11-A, the Tribunal has the power to reduce the quantum of**



**punishment it has to be done within the parameters of law. Possession of power is itself not sufficient; it has to be exercised in accordance with law.** *The High Court found that the Industrial Tribunal had not indicated any reason to justify variations of the penalty imposed. Though learned counsel for the respondent tried to justify the award of the Tribunal and submitted that the Tribunal and the learned Single Judge have considered the case in its proper perspective, we do not find any substance in the plea. **Industrial Tribunals and Labour Courts are not forums whose task is to dole out private benevolence to workmen found by the Labour Court/Tribunal to be guilty of misconduct.** The Tribunal and the High Court, in this case, have found a pattern of defiance and proved misconduct on not one but on several occasions. The compassion which was shown by the Tribunal and unfortunately endorsed by the learned Single Judge was fully misplaced.”*

*...[emphasis supplied]*

40. The ratio emerging from the aforesaid decisions is unequivocal. Once the domestic enquiry is upheld and misconduct stands proved, interference with the quantum of punishment under Section 11-A of the ID Act, 1947 is permissible only upon a clear finding that the penalty is shockingly disproportionate or that legally relevant mitigating circumstances exist. Sympathy, length of service, or benevolent considerations cannot, by themselves, justify substitution of penalty.

41. Reverting to the facts of the present case, the Labour Court upheld the enquiry as fair and proper and recorded a categorical finding that the Respondent had remained unauthorizedly absent for a prolonged period and had a history of similar misconduct. The only ground on which the punishment of removal was modified was the length of service rendered by the Respondent. Significantly, no finding was recorded that the penalty was



shockingly disproportionate, nor was any mitigating circumstance relating to the misconduct itself identified. The jurisdictional precondition for exercise of power under Section 11-A was therefore not satisfied.

42. The past service record of the Respondent discloses repeated instances of unauthorized absence, evincing a sustained pattern of habitual indiscipline rather than an isolated lapse. The material particulars of his prior misconduct are set out hereunder:

(i) The service record of Respondent discloses more than eight adverse entries pertaining to unauthorized absence, along with at least four instances of major punishment imposed for similar misconduct.

(ii) The Respondent remained unauthorizedly absent w.e.f. 30<sup>th</sup> August, 1996, for which he was awarded the penalty of censure.

(iii) He again absented himself unauthorizedly from 1<sup>st</sup> July, 1997 to 31<sup>st</sup> October, 1997, resulting in the punishment of “stoppage of one due increment with cumulative effect”.

(iv) In the year 1999, he remained absent without information for 39 days, for which two due increments were stopped.

(v) Despite the aforesaid punishments, he continued in similar conduct and remained unauthorizedly absent from 1<sup>st</sup> June, 1998 to 31<sup>st</sup> May, 1999 for 223 days, attracting the major penalty of reduction of two stage in the time scale of Conductor for a period of two years.

43. In view of the aforesaid misconduct, the present charge was not an isolated lapse but part of a continuing pattern of repeated unauthorized absence for which the Respondent had been punished on multiple prior



occasions. The management progressively imposed stricter penalties, including censure, stoppage of increments and reduction in time scale, thereby affording repeated opportunities for reform; yet, despite more than eight adverse entries and at least four major punishments, no improvement followed. The recurring misconduct establishes habitual indiscipline. In these circumstances, the penalty of removal cannot be termed shockingly disproportionate.

44. Learned counsel for the Respondent relies upon *Delhi Transport Corporation v. Ranbir Singh (W.P.(C) 6392/2017)*, decided on 04<sup>th</sup> January, 2023. The said decision is clearly distinguishable. In *Ranbir Singh(supra)*, although the workman had not submitted leave applications in the prescribed format, the Enquiry Officer noted that he had furnished leave applications along with medical certificates from private doctors though not in the prescribed format and had offered an explanation for his prolonged absence arising out of compelling family circumstances. These factors were taken into consideration while exercising powers under Section 11-A of the ID Act, 1947, and the High Court found such limited interference not to be perverse. In the present case, however, the Labour Court has specifically recorded that no medical document relating to the period of absence from 07<sup>th</sup> April, 2001 to 23<sup>rd</sup> July, 2001 was produced before the Enquiry Officer, and that the medical papers subsequently relied upon pertained to a later period. Despite repeated directions to resume duty or appear before the Medical Board, the Respondent failed to do so. The Labour Court itself recorded that the charge of unauthorized absence stood proved and found no infirmity in the order of removal. Further, the Respondent's past service record discloses repeated instances of similar



misconduct with prior penalties, establishing habitual indiscipline. In the absence of any comparable mitigating circumstance, the ratio of *Ranbir Singh* does not advance the respondent's case.

45. Learned counsel for the Respondent has further relied upon *Raxa Security Services Limited v. Sagar Kumar Mandal in (W.P.(C) 8942/2023)* and *D.K. Yadav v. J.M.A. Industries Ltd., (1993) 3 SCC 259*, to contend that termination of service, having serious civil consequences for livelihood, must conform to standards of fairness and proportionality. The principle is unexceptionable; however, the reliance is misplaced. Both decisions concerned termination without adherence to due process, particularly in cases of deemed abandonment without a proper enquiry. In the present case, a Charge-Sheet was issued, a domestic enquiry was conducted, the respondent participated and admitted the charge, and the enquiry has been upheld as fair and proper. The finding of misconduct stands concluded and is not under challenge on grounds of procedural infirmity. Once procedural fairness stands satisfied, Article 21 cannot be invoked to dilute the consequences of proved misconduct. The only issue before this Court is whether the punishment is shockingly disproportionate within the meaning of Section 11-A of the Industrial Disputes Act, 1947.

46. The decisions relied upon do not advance the respondent's case.

The legal position regarding the scope of interference under Section 11-A of the ID Act, 1947 in cases of habitual unauthorized absence stands squarely reinforced by this Court in *Delhi Transport Corporation v. Mahender Singh, W.P.(C) 10360/2016*, decided on 7<sup>th</sup> January, 2025, where, despite the enquiry being upheld and repeated absence with prior penalties being proved, the Labour Court had interfered on the ground of



long service; this Court set aside the Award, holding that in the absence of a finding of shockingly disproportionate punishment or legally relevant mitigating circumstances, interference under Section 11-A is impermissible. The relevant observations are extracted hereunder:

**23. Given the fact that the absences of the Respondent/Workman were frequent, continuous and for long durations and the documents submitted by the Respondent/Workman were all seeking leave on his own behalf for various ailments and not on behalf of his wife, the contentions of the Respondent/Workman are without any merit. In addition, in these circumstances, it cannot be said that the absence from duty was not willful.**

**24. In view of the judgments of the Supreme Court in Bharat Forge case and L&T Komatsu case, this Court is unable to agree with the Impugned Award, which is accordingly, set aside. The Enquiry Report of the Petitioner/DTC is affirmed.**

...[emphasis supplied]

47. In view of the foregoing discussion, the Labour Court, having upheld the enquiry and recorded a clear finding that the misconduct stood proved along with an adverse past record, could not have interfered with the punishment imposed, in the absence of a specific finding that the penalty of removal was shockingly disproportionate to the gravity of the misconduct or that any legally relevant mitigating circumstances existed warranting such interference. Modification solely on the ground of length of service amounts to sympathetic substitution de hors Section 11-A of the ID Act, 1947. The jurisdictional precondition that the punishment was “not justified” was never satisfied; the interference is therefore unsustainable.



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48. Accordingly, this Court finds merit in the present Writ Petition. The impugned Award, insofar as it modifies the punishment of removal, is set aside. The Order of removal dated 29<sup>th</sup> August, 2003 passed by the petitioner stands affirmed.

49. In terms of the aforesaid observation, Writ Petition along with pending application, if any, stands disposed of. No order as to costs.

**SHAIL JAIN**  
**JUDGE**

**FEBRUARY 12, 2026/rm**