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**(1996) 01 DEL CK 0076**

**In the Delhi High Court**

**Case No :** Civil Writ Petition No. 1123 of 1976

Chattar Singh

APPELLANT

Vs

Delhi Transport Corporation

RESPONDENT

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**Date of Decision :** 01-01-1996

**Acts Referred:**

Industrial Disputes Act, 1947 — Section 33(2)

**Citation :** (1996) 1 AD 380 : (1996) 61 DLT 344

**Hon'ble Judges :** Dr. M.K. Sharma, J

**Bench :** Single Bench

**Advocate :** Nem, for the Appellant;

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**Judgement**

M.K. Sharma, J.

(1) The petitioner being aggrieved by the order dated 8.6.1973 passed by the respondent removing the petitioner from service has preferred this petition challenging validity of the aforesaid order dated 8.6.1973 and in the alternative in this petition, the petitioner seeks for the direction to consider the case of the petitioner for reference to the appropriate Labour Forum.

(2) The petitioner was appointed as a Conductor by The General Manager of Delhi Transport Undertaking. On 16.10.1970, a charge-sheet was issued to the petitioner on a specific charge of not issuing ticket inspire of collecting fare from the passenger and thereby violating Para 21(iv) of the Executive Instruction Duties of a Conductor and Para 9(B) of the standing orders governing the conduct of D.T.U. employees. Charges were framed against the petitioner and the charge-sheet was issued on 16.10.1970. On completion of the Departmental proceeding, an order was passed by The Deputy General Manager proposing the punishment of removal of petitioner from the service. By a Memorandum dated 27.7.1971 a copy of the Enquiry Report was sent to the petitioner and a show cause notice was issued to him to explain as to why he should not be removed from the service of the Undertaking in pursuance of the aforesaid show cause

notice.

(3) Subsequently, on 8.6. 1973, the petitioner was removed from service by The Deputy General Manager. The approval u/s 33(2)(b) of the Industrial Disputes Act was also obtained from the Additional Industrial Tribunal.

(4) The petitioner, it appears, thereafter filed an application before the appropriate Government seeking to raise a dispute regarding the petitioner's dismissal from service. The appropriate Government declined to make any reference on application filed by the petitioner and the application for review of the said decision was also rejected. The appropriate Government rejected the review petition filed by the petitioner on 5.7.1975. In spite of dismissal of the aforesaid application seeking reference, the petitioner kept on submitting representation before the Labour Commissioner for referring the dispute for adjudication which apparently were not acceded to.

(5) The petitioner accordingly has filed this writ petition challenging the order of removal and also for not making a reference by the appropriate Government with the Forums under the Labour Act.

(6) The principle ground for challenging the order of removal in the instant case as disclosed from the contents of the writ petition appears to be that the Deputy General Manager is not competent and empowered to remove the petitioner from service. The aforesaid contention of the petitioner, on the face of it, appears to be untenable as under office order No. 32 dated 9.3.1967 full powers vested in the General Manager under the various sections of the Dmc Act, 1957 came to be delegated to The Deputy General Manager, who had in the instant case passed the impugned order of removal of the petitioner. In this view of the matter, it cannot be said that in the instant case. The Deputy General Manager had no authority or competence to pass the order of removal against the petitioner.

(7) In this writ petition, no grievance has been raised with regard to commission of any procedural error in conducting the Departmental Enquiry and, Therefore, I am not called upon to look into the same. The petitioner appears to have been dismissed from service in the year 1973 and this writ petition came to be filed only in the year 1976. There is a delay of about three years, during which period it appears the petitioner kept on putting several representations and appeals to the appropriate Government for making a reference to the appropriate Forum under the Labour Acts which were declined by the appropriate Government. The final decision in respect of refusal to refer the dispute was taken on 29.1.1975. Even after that there is a delay of about one year in approaching this Court by the petitioner to which no Explanation has been given.

(8) In the result, this application has no merit and is accordingly dismissed, but without any costs.