
(2005) 02 DEL CK 0204

In the Delhi High Court

Case No : Writ Petition (C) No. 3821 of 2004 and C.M. No. 3128 of 2004

Delhi Transport Corporation

APPELLANT

Vs

Ishwar Singh

RESPONDENT

Date of Decision : 14-02-2005

Acts Referred:

Citation : (2005) 105 FLR 820

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Advocate : R. Patnayak, for the Appellant; P.L. Sebastian, for the Respondent

Judgement

Mukul Mudgal, J.—Rule, Pleadings are complete. The writ petition is taken up today for hearing.

This writ petition challenges Order dated 23rd May, 2003, passed by the Presiding Officer, Industrial Tribunal-II, Karkardooma Courts, Delhi.

2. The only ground on which the issue No. 2 was decided against the petitioner DTC was non-examination of ticketless passenger travellers, the portion of law on this issue is well settled. It is surprising that in spite of the settled position of law laid down by the Hon'ble Supreme Court in *State of Haryana v. Rattan Singh* 1977 (34) FLR 264 (SC), wherein it has been held that non-examination of ticketless passenger should not be a ground for setting aside the domestic enquiry, the Counsel for, DTC do not cite this and other relevant judgments before the Tribunal. A learned Single Judge of this Court, Madan Lokur J., in an exhaustive judgment in *Delhi Transport Corporation Vs. N.L. Kakkar* Presiding Officer, Industrial Tribunal No. 1 and *Karan Singh, Conductor*, summarised the position of law by referring to the following judgments:

(a) *State of Haryana v. Ram Cander* 1977 (37) FLR 264 (SC).

(b) *State of Haryana v. Rattan Singh* *State of Haryana v.* 1977 (34) FLR (SC).

(c) *Delhi Transport Corporation Vs. N.L. Kakkar* Presiding Officer, Industrial

Tribunal No. 1 and Karan Singh, Conductor,

I respectfully concur with and indeed bound by the position of law summed up by the learned Single Judge in DTC v. N.L. Kakkar's case (supra).

3. It is surprising that neither the Counsel for the DTC cited the aforesaid judgment before the Labour Courts/Tribunals nor are the Labour Courts/ I Tribunal taking note of this settled position of law.

4. Mr. P.L. Sebastian, the learned Counsel, appearing for the respondent/ workman has stated that the issue of noncompliance of the Standing Orders was not decided by the Tribunal as the Order dated 23rd May, 2003 was based entirely on non-examination of the passengers.

5. Accordingly, the writ petition is allowed and the order dated 23rd May, 2003 is quashed and set aside. The matter is remanded back to the Industrial Tribunal-IL Delhi for considering only this issue of non-compliance of Standing Order Parties to appear before the Tribunal on 11th May, 2005.

6. The registry is directed to ensure that a copy of this judgment is sent to the District Judge, who is directed to ensure that this order and the judgment of Justice Madan Lokur in D.T.C. v. N.L. Kakkar's case (supra) is brought to the notice of all Labour Courts/Industrial Tribunals.

The Writ petition stands disposed of accordingly. All the pending applications stand disposed of.