

(2009) 09 DEL CK 0219

In the Delhi High Court

Case No : Writ Petition (C) No. 4161 of 2001

Delhi Transport Corporation

APPELLANT

Vs

Shri Jeet Singh (Ex. Driver)

RESPONDENT

Date of Decision : 10-09-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) 09 DEL CK 0219

Hon'ble Judges : S.N. Aggarwal, J

Bench : Single Bench

Advocate : J.S. Bhasin, for the Appellant; Rakesh Kumar, for the Respondent

Final Decision : Dismissed

Judgement

S.N. Aggarwal, J.—The Delhi Transport Corporation in this writ petition seeks to challenge an order of the Industrial Adjudicator dated

16.10.2000 in O.P. No. 263/1992 declining approval u/s 33(2)(b) for removal of the respondent from its service w.e.f. 06.07.1992.

2. I have heard the learned Counsel for both the parties.

3. The petitioner was working as a Driver with Delhi Transport Corporation and he was served with a charge-sheet dated 06.03.1991 for

remaining absent unauthorizedly for 26 days in December 1990, 22 days in January 1991 and 27 days in February 1991. After holding a domestic

inquiry against him, the management of Delhi Transport Corporation decided to remove him from service w.e.f. 06.07.1992. Since at that time an

industrial dispute concerning Delhi Transport Corporation workers' demand for implementation of the Fourth Pay Commission Report was

pending adjudication before the Industrial Tribunal, the Delhi Transport Corporation filed an application u/s 33(2)(b) for approval of the Tribunal

of its action for removal of the respondent workman.

4. The Industrial Tribunal vide order dated 06.03.1999 decided the inquiry issue against the management of Delhi Transport Corporation since the report of the Inquiry Officer was found perverse. After the inquiry issue was decided against the management of Delhi Transport Corporation vide order dated 06.03.1999, ample opportunities were given to the management of Delhi Transport Corporation to prove the alleged misconduct against the respondent but despite that, the management did not produce any evidence to prove the misconduct against the respondent. The Court below in para 11 of the impugned order has noted that the case was adjourned for the management evidence to prove the alleged misconduct against the respondent on various dates, i.e., on 25.01.2000, 30.03.2000, 19.07.2000 and 16.10.2000 but the management despite that did not produce any evidence to prove the alleged misconduct against the respondent. For that reason, the evidence of the management was rightly closed by the Tribunal.

5. In view of what has been stated above, this Court is of the considered opinion that the approval u/s 33(2)(b) was rightly declined by the Tribunal below for removal of the respondent from its service. In the facts and circumstances of the case, I do not find any illegality or perversity in the impugned order that require an interference by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India. This writ petition, therefore, fails and is hereby dismissed leaving the parties to bear their own costs.