

(2017) 10 DEL CK 0329

In the Delhi High Court

Case No : Letter Patent Appeal No. 655 Of 2017, Civil Miscellaneous No. 36478-36483 Of 2017

Delhi Transport Corporation

APPELLANT

Vs

Vijay Kumar

RESPONDENT

Date of Decision : 13-10-2017

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C(2)

Citation : (2017) 10 DEL CK 0329

Hon'ble Judges : S. Ravindra Bhat, J;Sunil Gaur, J

Bench : Division Bench

Advocate : Aditi Gupta

Final Decision : Dismissed

Judgement

S. Ravindra Bhat, J

1. The appellant is aggrieved by the judgment of learned Single Judge which affirms the Award under Section 33C (2) of The Industrial Disputes Act,

1947. The respondent-workman complained of denial of lawful wages, which had accrued to him for a one year period from September, 2012.

2. In the proceedings before the Labour Court, the parties have led evidence. The workman initially engaged in 1986 as a Conductor with the

appellant i.e. DTC, produced several documents including letters written to the Management from September, 2012 repeatedly asking it to take him

back into employment or pay him wages. Apparently in 2008, the workman had complained of some eye problem but was allowed to rejoin in 2009

and he worked for three years. He was not given work in September, 2012. On an appreciation of all the circumstances, the Labour Court held

workman entitled to Rs. 2,98,828/- as back wages for the period claimed in

the application. The Management of the DTC challenged the Award

primarily contending that the workman had not produced the disability certificate despite repeatedly being asked to do so. Learned Single Judge

however declined the submission and affirmed the Award.

3. In the appeal, learned counsel highlights that once the workman had complained of a disability, the question of his being permitted to rejoin did not

arise till he satisfied the organization about his physical and medical fitness to discharge responsibilities attached to his post. It was contended that the

workman had suppressed certain facts relating to his disability and was thus successful in securing a favourable Award.

4. This Court is of the opinion that the findings of the Labour Court are reasonable. Concededly, the workman had complained of some eye problem

and there was break in his employment for a period of one year. Thereafter, for the period 2009-12, he worked in DTC though not as a Conductor. In

these circumstances, when he reported in September, 2012 again for his duty, he was not given any work. His repeated representations went

unheeded. In the meanwhile, DTC insisted to produce the disability certificateâ"completely negating its own decision for three years of having

accepted him and given him employmentâ" though in a different capacity.

5. Having regard to all these facts, the Labour court in our opinion correctly appreciated circumstances and held that the workman was denied wages

unjustifiedly. The conclusion of the learned Single Judge is also to the same effect. We, therefore, see no merit to interfere with the impugned order.

Hence, the appeal and the application are dismissed.