
(2011) 05 DEL CK 0219
In the Delhi High Court
Case No : Writ Petition (C) 3634 of 2011

Dharam Raj

APPELLANT

Vs

Delhi Transport Corporation

RESPONDENT

Date of Decision : 25-05-2011

Acts Referred:

Citation : (2011) 05 DEL CK 0219

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Anil Mittal and Prashant Katara, for the Appellant; Urvashi Malhotra, for Avnish Ahlawat, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The writ petition impugns the award dated 17th August, 2006 of the Industrial Adjudicator holding the removal of the Petitioner workman from the services of the Respondent DTC to be legal and justified and the Petitioner workman not entitled to any relief. The writ petition has been preferred after nearly five years of the award. The workman who is aggrieved from the award is required to act diligently and not expected to allow such long time to lapse. There is absolutely no explanation whatsoever for such long delay. On enquiry, the counsel for the Petitioner workman states that the delay was on account of "family circumstances". Again, no particulars whatsoever have been given.

2. Even otherwise, I find that the Petitioner is not serious in the challenge now made also; except for the award and the order dated 18th May, 2006 of the Industrial Adjudicator holding the inquiry held preceding the termination to be valid and proper, nothing else has been filed. The counsel for the Petitioner workman on enquiry fairly admits that the remaining record of the Industrial Adjudicator has not even been made available to him. For the Petitioner to seek judicial review of the award, the Petitioner is required to make out a case of the findings in the award being perverse, unreasonable or not borne out from the

record. In the absence of the record, it cannot be even urged that the Industrial Adjudicator has not appreciated the material on record. It is perhaps for this reason only that a mere lip service has been paid in the writ petition in the name of the grounds. Else on a reading of the order dated 18th May, 2006 and the award, no perversity or unreasonableness is found therein.

3. The Petitioner workman, while employed with the Respondent DTC as Retainer Crew Driver with effect from 24th June, 1981, was charged with, having on 15th September, 1990 entered the room of Depot Manager on the pretext of break down in the bus and having given blows with fist to the Depot Manager, dragging him to the toilet and giving him deadly blow due to which his three teeth were broken. The Petitioner workman was thus charged with assault and causing grievous injury.

4. The only ground urged by the Petitioner workman before the Industrial Adjudicator was that since he had been acquitted of the same charge in the prosecution, the findings of the departmental inquiry on his guilt were bad.

5. The Industrial Adjudicator has rightly held that the measure of proof in prosecution and in a departmental inquiry is different. Reference in this regard may also be made to Daya Swaroop Saxena Vs. The Presiding Officer, Labour Court No. VII and Another and Shri Raj Kumar Sharma Vs. Union of India (UOI) and Another,

6. The counsel for the Petitioner workman has sought to argue that while in the departmental inquiry only one witness was examined by the Respondent DTC, however in the prosecution several witnesses were examined; it is contended that when on more evidence guilt has not been established, the report of Inquiry Officer, finding guilt, on lesser evidence has to be necessarily perverse. However, without placing the evidence before this Court, no challenge can be made. As aforesaid, the Industrial Adjudicator has vide order dated 18th May, 2006 held the inquiry conducted to be proper and in compliance of the principles of natural justice. No error with respect to the said order is made out.

7. The Industrial Adjudicator in the award has also held the punishment to be proportionate finding that the Petitioner workman in twelve years of service had as many as nineteen adverse entries in his record and had in the past also been dismissed from service.

8. The Petitioner has not made out any case for interference.

Dismissed. No order as to costs.