
(2006) 10 DEL CK 0120
In the Delhi High Court
Case No : WP (C) 15176 of 2006

Ram Kishan

APPELLANT

Vs

Delhi Transport Corporation

RESPONDENT

Date of Decision : 16-10-2006

Acts Referred:

Citation : (2006) 10 DEL CK 0120

Hon'ble Judges : J.M. Malik, J

Bench : Single Bench

Advocate : Anil Mittal, for the Appellant; Sumeet Pushkarana, for the Respondent

Judgement

J.M. Malik, J.—The petitioner was appointed as driver with the respondent on 3.11.1982. The petitioner was indisposed and Therefore he took leave for certain days between the period February 1989 to May, 1989. The respondent without holding an inquiry and without issuing any charge sheet, ordered on 03.05.1989 that the petitioner was deemed to have resigned from the service. The petitioner called into question the said judgment. Vide award dated 31.05.1999, the Labour Court answered the reference in favor of the petitioner and ordered his reinstatement with 50% back wages. The petitioner got recovered the arrears of salary in the sum of Rs. 2,29,426/- from the date of removal till the date of award through the recovery officer. The Delhi Transport Corporation challenged the order before Delhi High Court.

2. The Hon'ble Single Judge of this Court vide its common order dated 29.10.2001 dismissed the writ petitions and upheld the awards of the Labour Court. The Division Bench also dismissed all the LPAs on 7.5.2002. The DTC challenged the order before the apex court. The apex court vide its order dated 25.4.2006 was pleased to dispose of all the matters. The relevant portion of the judgment of the apex court runs as follows:

(1) Concerned respondents shall be reinstated without their laying any claim for

back wages. The respondents in C.A. Nos. 7135-7136/2004, 7112-7123/2004, 7131-7132/2004 and 693/2005 are willing to join back without laying any claim for back wages.

2. The petitioner was reinstated in service vide order dated 14.7.2006. Vide order 18.7.2006, respondent asked the petitioner to refund and deposit the sum of Rs. 2,29,426/- with the cashier. The petitioner moved representation vide letter dated 26.7.2006, wherein it was requested that the Supreme Court and the High Court had not asked them to refund the arrears of salary already paid to them. It appears that the representation did not ring the bell because vide order dated 21.8.2006, the respondent directed that one-third of petitioner's monthly salary be deducted to effect the recovery in the sum of Rs. 2,29,426/-. Under the circumstances, the present writ was filed where it was requested that the order dated 21.8.2006 be quashed and the respondent be directed not to refund the amount of salary already deducted from the salary of the petitioner with interest.

3. I have heard the counsel for the parties. The learned Counsel for the parties argued that it is for the court to interpret the order passed by the Hon''ble Supreme Court. In support of his case, petitioner has submitted an order passed by the Division Bench of this Court dated 17.08.2006 titled Ram Dutt v. D.T.C. and Anr. LPA 156/2001, in which it was held:

It is not in dispute that the judgment dated 18.04.2006 passed in the case of DTC v. Prakash Chand by the Hon''ble Supreme Court in Civil Appeal No(s) 7110-7111/2004 covers the issue involved in the present appeal. We are of the view that the present appeal should stand disposed of in terms of the said judgment.

Accordingly, we direct that the appellant shall be reinstated without laying any claim for back wages in accordance with the directions given by the Hon''ble Supreme Court in the case DTC v. Prakash Chand in paras 1 and 2. The appellant is directed to join the duty within six weeks from today.

The period during which the appellant remained out of service will be taken into account for the purpose of continuity so that certain retiral/pensionary benefits can be given to the appellant. The appellant will not claim any back wages for the period when he was out of service. The respondent shall also not recover any amount paid to the appellant during this period.

With these directions, this appeal stands disposed of.

4. On the other hand, the counsel for the respondent has also drawn the attention of the Court towards the copy of judgment by same Division Bench in case titled as DTC v. Naresh Kumar in CM No. 7926/2006 dated 30.05.2006, the relevant extract is reproduced as follows:

Considering the above circumstances, we are of the view that since the appellant themselves got this appeal adjourned to await the orders of the Hon''ble

Supreme Court, similar orders as that of the Hon"ble Supreme Court needs to be passed in the present matter also. Accordingly, the respondent is granted reinstatement w.e.f. 1st July, 2006 subject to his foregoing all claims for backwages arising from the award dated 17.4.2001.

5. This court is bound by the interpretation made by the Division Bench in case Ram Dutt v. D.T.C. and Anr. (supra). It is, Therefore, ordered that respondent shall not recover any amount paid to the period during this period. The amount already recovered be paid back to the petitioner within a period of four months. Petition stands disposed of.