

D.T.C. Vs. Devinder Singh and anr.

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SooperKanoon Citation : sooperkanoon.com/706217

Court : Delhi

Decided On : Oct-17-2003

Reported in : 2004(73)DRJ704

Judge : Mukul Mudgal, J.

Acts : Delhi Road Transport Authority (Conditions of Appointment and Services) Regulations, 1952

Appeal No. : CW 6590/2003 and CM 11485/2003

Appellant : D.T.C.

Respondent : Devinder Singh and anr.

Advocate for Pet/Ap. : S.K. Luthra, Adv

Disposition : Petition dismissed

Judgement :

Mukul Mudgal, J.

1. This writ petition challenges the Award dated 27th August, 2002 directing the reinstatement with full back wages and continuity of service in favor the petitioner. In the impugned award the Labour Court noted that the premature retirement of the respondent No. 1/workman was not under Clause 10 of the Delhi Road

Transport Authority (Conditions of Appointment & Service) Regulations, 1952 which reads as follows:-

'a) In case it is certified that the employee has become permanently disabled and is unfit to discharge duty of the post held by him and refuses to accept the post offered to him in view of the aforesaid Resolution No. 23.

b) In case the employee is not able to recover completely within maximum period of 18 months as stipulated above and is medically unfit at the expiry of the said period of 18 months for the post held by him.'

2. The Tribunal has found by the impugned award as follows:-'In the present case, the workman was holding the post of conductor and he was declared unfit for the post but as per the admission of the management in WS itself, no other post was offered to him, as such, the management cannot take any benefit of Clause (a). The management has also not fulfilled the second condition as the period of 18 months during which the workman had remained medically unfit has not expired when he was retired prematurely. The workman met with an accident on 12-1-95 and was retired prematurely on 1-2-96. So, none of the conditions is fulfilled for retiring a person prematurely. As such, even the premature retirement of the workman is bad.'

3. From the perusal of the above rule, it is clear that in the award of the Industrial Tribunal impugned in this Court, the Tribunal has correctly analyzed the aforesaid clause 10 and accordingly there is no error in the impugned award dated 27th August, 2002 which warrants interference in the writ jurisdiction of this Court under Article 226 of the Constitution of India.

4. The writ petition is accordingly dismissed in liming with no order as to costs.