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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 895/2019

SHRI RAJA RAM

..... Petitioner

Through: Mr.Shafiq Khan, Advocate

versus

DELHI TRANSPORT CORPORATION AND ANR.

..... Respondents

Through: Mr.Vikrant N. Goyal and Ms.Eshita
Mishra, Advocates for R-1.

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Date of Decision: 30.08.2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. Present petition has been filed seeking quashing and setting aside the order dated 26.08.2017 passed by the learned labour court deciding the preliminary issue and against the award dated 21.09.2017 whereby the claim petition being filed by the petitioner was dismissed.
2. The facts in brief are that the petitioner was working as senior Foreman in Dwarka Depot -2. On 12.10.2011, while the petitioner was on duty Bus No.DL1PC 7709 came in the Depot in an accidental condition. Foreman of the general shift, Sh.Dinesh Singh was asked to get the bus repaired and the bus was parked in the depot for repairing. The allegation against the petitioner is that he allowed the bus to go outside



without repair being undertaken. Petitioner's plea is that on the basis of false report of Sh.Dinesh Thakur, charge-sheet was issued and enquiry was initiated against him and the enquiry officer held him guilty despite contradiction in the statement of the witnesses. The grievance of the petitioner is that acting upon the enquiry report, a show cause notice was issued and the department without taking into account his reply passed an order for stoppage of two annual increments with cumulative effect. The departmental appeal was dismissed. The petitioner raised an industrial dispute, on which reference was made.

3. The case of the department is that in fact, it was the petitioner whose duty was to get the damaged bus repaired but neither he got the bus repaired and nor kept it in held up list and due to that reason, the bus had out shedded on 12.10.2011 at 2.40 p.m.. The management has alleged that by not getting the bus repaired and by not mentioning the same in the held up buses, the petitioner had shown negligence.
4. The labour court initially framed a preliminary issue so as to ascertain whether the enquiry was conducted in accordance with the principles of natural justice. It was inter alia held that the enquiry was held in accordance with principles of natural justice. Learned counsel for the petitioner has submitted that in fact, the labour court has not considered the material on record and therefore, the order is liable to be set aside. It has further been submitted that the respondent management has not furnished the report of Sh.Dinesh Thakur which was a material document.
5. Plea of the learned counsel for the respondent is that the labour court had taken into account all the documents and has passed the order in



accordance with law. Perusal of the impugned award dated 26.08.2017 indicates that the learned Labour court has considered all the material on record and inter alia passed the order as under:

“8. From the deposition of witnesses produced by management and claimant before Enquiry Officer, it becomes clear that on 12.10.2011, the claimant was working as Incharge in night shift and his duty was from 1.00 PM to 9.00 PM. At 1.45 PM, a bus No. DL-IPC-7709 had come in the depot in accidental condition. The claimant had filled up accident intimation report. Claimant's case is that Sh. Dinesh Singh Thakur, General Foreman, had obtained his signature on the list of available buses and forcibly out shedded the same saying that he would get the bus repaired in the night. On the other hand, management's case is that it was claimant's duty to get the bus repaired on the same day and if it was not repaired, he should have put the bus in the category of held up buses so that same may be got repaired at some later time but deliberately, he put the buses in OK condition and he did not so to give benefit to the contractor i.e. whose duty was to repair the bus.

It has been admitted by claimant in statement of claim and affidavit in evidence that the said bus had come to the depot in accidental condition. He had prepared accident intimation report thereof. It has further been admitted that the list of available buses is bearing his signature. It was his duty to get the bus rectified or to put the same in held up category. Why he buckled under the pressure of Sh. Dinesh Singh Thakur? By bowing before Sh. Dinesh Singh Thakur, he did not do his duty. He cannot be allowed to say that he put the bus in the category of OK buses on the assurance of Sh. Dinesh Singh Thakur that he would get the bus repaired in the night. On the other hand, it is the consistent stand of Sh. Dinesh Singh Thakur, who appeared as witness No.1 before Enquiry Officer, that he had come to know only on 13.10.2011 after receipt of accident intimation report that the bus No. DL-IPC-7709 had come to the depot in accidental condition on 12.10.2011 and the same was neither got repaired nor put in



the category of held up buses. In this regard, he is completely supported by night shift Incharge Sh. Satpal Singh who deposed that when he took charge from claimant, he did not find bus No. DL-1PC-7709 in the category of held up buses.”

6. This court in the case of ***Parshuram Shah v GNCTD & Anr*** 2008 SCC OnLine Del 1186 relied on a plethora of judgments of the Supreme Court including ***Indian Overseas Bank v. I.O.B. Staff Canteen Workers*** (2000) 4 SCC 245 wherein the Labour Court was held to be the final court of facts. It was held that it is not appropriate for this Court, while exercising jurisdiction under Article 226 of the Constitution, to re-appreciate evidence or to interfere with the findings of facts as arrived at by the Labour Court. The jurisdiction exercised by the writ court under Article 226 is supervisory and not appellate in nature. Reappraisal of evidence without sufficient reason in law, to arrive at a finding of fact contrary to those arrived at by the Subordinate Court, is not the intent of exercising the powers of judicial review. Further in ***Avatar Singh Hit v. Delhi Sikh Gurudwara Management Committee & Ors.***, (2006) 8 SCC 487, it was held that maintainability of writ when alternative remedies available are not exhausted. In the absence of any exceptional or extraordinary circumstance for not availing proper remedy provided for in a specific act, writ petition under Art. 226 is not entertainable.
7. Learned labour court in the further part of the award has meticulously appreciated the entire evidence brought on record. The jurisdiction of the writ court while dealing with the challenge made to the award passed by the Labour court is well settled. Though the jurisdiction



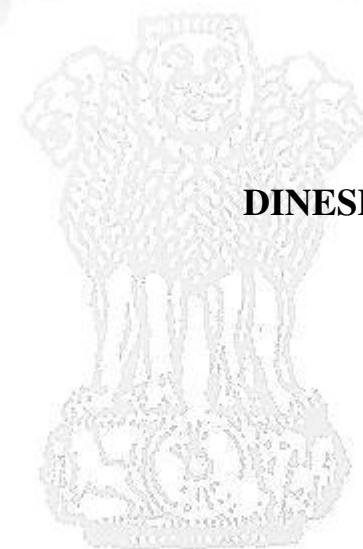
under article 226 is wide but it has to be used with circumspection. The law in its wisdom has not allowed any appeal to be filed against the award passed by the Labour court. The Labour court is held to be the final arbiter of the facts. The writ court cannot re-appreciate the evidence. The writ court also cannot substitute its view in place of the view of the Labour court merely because another view was also possible on the given facts and circumstances.

8. I consider that there is no substance in the writ petition. Hence, the writ petition is dismissed.

DINESH KUMAR SHARMA, J

AUGUST 30, 2022

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