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

+ **W.P.(C) 6521/2017**

RISHIPAL SINGH

..... Petitioner

Through: **Mr.Puneet Verma, Advocate**
versus

**M/S DELHI TRANSPORT
CORPORATION AND ANR**

..... Respondents

Through: **Mr.Purvesh Buttan, Mr.Fahad Imtiaz,
Advocates along with Mr.Ravinder
Kumar, Conductor (Legal Section)**

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **27.05.2019**

1. The petitioner has challenged the award of the Labour Court whereby his claim was dismissed.
2. The respondent appointed the petitioner as a Conductor on 30th June, 2010 on contract basis at a monthly salary of Rs.10,574/- per month. On 08th July, 2013, the raiding team of the respondent found that the petitioner had not issued the tickets to four passengers after collecting the fare from them. The respondent issued a show cause notice dated 12th July, 2013 and thereafter terminated him on 18th July, 2013 in terms of the contract.
3. Learned counsel for the petitioner submits that the respondent could not have terminated the petitioner without an enquiry whereas learned counsel for the respondent submits that the enquiry was not necessary considering that the petitioner was appointed on contract basis.
4. This Court is of the view that this is a clear case of loss of confidence by the respondent against the petitioner for not issuing the tickets to four



passengers after collecting the fare from them. The law with respect to the loss of confidence is well-settled that the reinstatement cannot be ordered when an employee acts in a manner by which the management loses confidence in him. In case of loss of confidence, only compensation can be awarded. Reliance be made to the recent judgment of this Court in ***State Bank of Travancore v. Prem Singh***, 2019 SCC OnLine Del 8258 in which this Court, after considering ***M/s Francis Klein & Co. Pvt. Ltd. v. The Workmen***, AIR 1971 SC 2414, ***Air India Corporation v. V.A. Rebellow***, AIR 1972 SC 1343, ***Anil Kumar Chakaborty v. M/s Saraswatipur Tea Company Limited***, AIR 1982 SC 1062, ***Chandu Lal v. Management of M/s Pan American World Airways Inc.***, (1985) 2 SCC 727, ***O. P. Bhandari v. Indian Tourism Development Corp. Ltd.***, (1986) 4 SCC 337, ***Workmen v. Bharat Fritz Werner (P) Ltd.*** (1990) 3 SCC 565, ***A.K. Dass v. National Fed. of Coop. Sugar Factories Ltd.*** 1994 SCC Supl. (2) 520, ***Punjab Dairy Development Corporation Ltd. v. Kala Singh***, (1997) 6 SCC 159, ***Sudhir Vishnu Panwalkar v. Bank of India***, (1997) 6 SCC 271, ***Kanhaiyalal Agrawal v. Factory Manager, Gwalior Sugar Co. Ltd.***, AIR 2001 SC 3645, ***Divisional Controller, KSRTC (NWKRTC) v. A.T. Mane***, (2005) 3 SCC 254, ***Bharat Heavy Electricals Ltd. v. M. Chandrasekhar Reddy***, AIR 2005 SC 2769, ***T.N.C.S. Co. Ltd. v. K. Meerabai***, (2006) 2 SCC 255, ***State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya***, (2011) 4 SCC 584, ***Divisional Controller, Karnataka State Road Transport Corporation v. M.G. Vittal***, (2012) 1 SCC 442, ***On-Dot Couriers & Cargo Ltd. v. Anand Singh Rawat***, (2009) 165 DLT 89, ***All India Institute of Medical Sciences v. O.P. Chauhan***, 2007 LLR 435 (Del HC), ***Abheraj Jaswal v. M/s Godrej Boyce Manufacturing***, 2011 SCC OnLine Del 3301, ***Johnson and Johnson***



Ltd. v. Gajendra Singh Rawat, (2016) 233 DLT 388, ***Lancers Convent Senior Secondary v. Jai Prakash***, 2018 SCC OnLine Del 7763, ***Sindhu Education Society v. Kacharu Jairam Khobragade*** (1995) ILLJ 451 Bom, ***Sanjiv Kumar Mahapatra v. A.L. Alaspurkar***, 2003 (1) ALLMR 534, ***National Institute of Mental Health & Neuro Sciences v. Sri G. Suggappa***, W.P. No.66/2013, ***Torrent Power Ltd. v. Chelabhai Nathabhai Luhar*** 2018 SCC OnLine Guj 3580 , summarised the principles as under:-

“Summary of Principles

31. When an employee acts in a manner by which the management loses confidence in him, his reinstatement cannot be ordered because it would neither be desirable nor expedient to continue the employee in service. It may also be detrimental to the discipline or security of the establishment. In case of loss of confidence, only compensation can be awarded.

32. The plea of ‘loss of confidence’ by the employer has to be bonafide. Loss of confidence cannot be subjective. It has to rest on some objective facts, which would induce a reasonable apprehension in the mind of the management regarding the trustworthiness of the employee and the power has to be exercised by the employer objectively in good faith, which means honestly with due care and prudence. Otherwise, a valuable right of reinstatement to which an employee is ordinarily entitled to, on a finding that he is not guilty of any misconduct, will be irretrievably lost to the employee.

33. The bonafide opinion formed by the employer about the suitability of his employee for the job assigned to him, even though erroneous, is final and not subject to review by the industrial adjudication.

34. In case of misconduct resulting in loss of confidence, the employer is not bound to hold any inquiry to visit the employee with penal action even if such reason happens to be misconduct of the employee. The employer, in its discretion, may invoke the power to discharge simpliciter for loss of confidence while dispensing with inquiry into the conduct of the workman. The departmental inquiry in such a case is not necessary.

35. The reinstatement of an employee terminated for loss of



confidence cannot be ordered even if the inquiry held by the employer has been held to be bad.

36. The reinstatement of an employee terminated for loss of confidence for involvement in a criminal case cannot be directed even if the employee is able to secure a acquittal or discharge in the criminal case.

37. The reinstatement has not been considered desirable in cases where there have been strained relationship between employer and employee. The reinstatement is also denied when an employee has been found to be guilty of subversive or prejudicial activities. The Courts have also denied reinstatement in cases where long time has lapsed or where the industry itself has become sick.”

5. Applying the principles laid down in the aforesaid judgment, this Court is of the view that there is no infirmity in the termination of the petitioner but the respondent is liable to pay fair compensation to the petitioner. In the facts and circumstances of this case, the compensation of Rs.1,25,000/- is fair and reasonable.

6. The respondent is directed to pay the compensation of Rs.1,25,000/- to the petitioner within a period of four weeks from today. Learned counsel for the petitioner shall furnish the particulars of the bank account of the petitioner within one week to Mr.Ravinder Kumar, Conductor (Legal Section) whereupon DTC shall transfer the aforesaid amount directly to the petitioner's account.

7. The writ petition is disposed of.

8. Copy of this order be given *dasti* to counsel for the parties under the signature of the Court Master.

J.R. MIDHA, J.

MAY 27, 2019

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