

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.183 OF 2016
(Arising out of SLP(C)NO.10348/2009)

RAM PHAL

APPELLANT (S)

VERSUS

DELHI TRANSPORT CORPORATION

RESPONDENT (S)

WITH

CIVIL APPEAL NO(S).184-186 OF 2016
(Arising out of SLP(C)NO.35202-35204/2009)

TRILOCHAN SINGH

APPELLANT (S)

VERSUS

DELHI TRANSPORT CORPORATION

RESPONDENT (S)

O R D E R

1. Heard learned counsel for the petitioners and learned counsel for the respondent-Delhi Transport Corporation (hereinafter called the 'Corporation').

2. Delay condoned in SLP(C) No(s).35202-35204/2009. Leave granted in all the SLPs.

3. The facts available in the record of the appeals arising out of SLP(C)Nos.35202-35204/2009 filed by Trilochan Singh disclose that after he suffered disability as a Driver under the respondent-Corporation, by an order dated 16.12.1996 the Corporation re-appointed him to the post of Store Attendant with various terms and conditions which inter alia indicate that his appointment as a Store Attendant will be a fresh appointment. For the intervening period, i.e., from the date of pre-mature retirement to the date of his appointment to the new post, he will

be treated as *dies non*. The break up period will neither be counted as a service nor be construed as a break in service.

4. In view of such clear terms in the fresh appointment letter, the appellant Trilochan Singh could not have been taken as a Driver and superannuated from service at the age of 55 years. when the retirement age of other cadre of employees including the Store Attendant is 60 years. Hence, without the need of going into the statutory provisions of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and their interpretation, on facts we are satisfied that the appellant-Trilochan Singh was wrongly superannuated at the age of 55 years.

5. In that view of the matter, we direct the respondent-Corporation to treat the appellant-Trilochan Singh to be in service as Store Attendant till he attained 60 years of age. For working out the emoluments payable on account of this order, the respondent-Corporation will be entitled to deduct the pension for the said period for which the appellant-Trilochan Singh will be treated to be in service and pay the difference of salary only. The amount of pension payable will also have to be re-worked by taking into account the fact that appellant-Trilochan Singh shall be deemed to be in service till he attained 60 years of age and shall be deemed to have superannuated on the lawful salary payable to him till that age.

6. In the case of Ramphal in Civil Appeal arising out of SLP(C)No.10348/2009, the relevant documents are not available but it is apparent that he had met with an accident as a Driver of the

respondent-Corporation on 29.4.1995 and thus suffered disability before coming into force of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Hence, for all practical purposes, the case of Ramphal has to be treated on same footing as of Trilochan Singh and he is also held entitled for a declaration that he was wrongly superannuated at the age of 55 years when he was working on a post different than that of Driver. He shall also be treated to be in service till he attained the age of 60 years. In his case also, difference of salary and pension etc. shall be worked out as per law.

7. The dues payable to the appellants in both matters shall be paid by the respondent-Corporation within three months. We are once again making it clear that this order has been passed on the basis of peculiar facts and fresh appointment letter as noticed above. In case the dues are not paid by the respondent-Corporation within three months, the same shall carry interest at the rate of 18% per annum till they are paid. Civil Appeals arising out of SLP(C)Nos.35202-35204/2009 and Civil Appeal arising out of SLP(C) No.10348/2009 are allowed to that extent. No order as to costs.

.....J.
[SHIVA KIRTI SINGH]

.....J.
[ABHAY MANOHAR SAPRE]

NEW DELHI
DATED; JANUARY 12, 2016

ITEM NO.11

COURT NO.5

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 10348/2009

(Arising out of impugned final judgment and order dated 09/01/2009 in WPC No. 6803/2006 passed by the High Court Of Delhi At New Delhi)

RAM PHAL

Petitioner(s)

VERSUS

DELHI TRANSPORT CORP.

Respondent(s)

(with interim relief and office report)

WITH

SLP(C) No. 35202-35204/2009

(With appln.(s) for c/delay in filing SLP and appln.(s) for c/delay in refiling SLP and Office Report)

Date : 12/01/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Petitioner(s) Mr. H. K. Chaturvedi, Adv.

Mr. Rutwik Panda, Adv.

Mrs. Anshu Malik, Adv.

For Respondent(s) Ms. A. Subhashini, Adv.

Dr. Monika Gusain, Adv.

Mr. Hari Om Yaduvanshi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned in SLP(C)No.35202-35204/2009.

Leave granted. The appeals are allowed to the extent indicated in terms of the signed order. Pending application (s), if any, stand disposed of.

[O.P. SHARMA]

AR-cum-PS

(Signed order is placed on the file)

[INDU BALA KAPUR]

COURT MASTER