



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% **Date of order: 14<sup>th</sup> May, 2024**  
+ W.P.(C) 718/2005

RAMEHS CHAND ..... Petitioner  
Through: Mr.Ravinder S.Garia and  
Mr.Sheshank Singh, Advocates

versus

D.T.C. .... Respondent  
Through: Ms.Aditi Gupta, Advocate

**CORAM:**  
**HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**

**ORDER**

**CHANDRA DHARI SINGH, J (Oral)**

1. The petitioner ('petitioner workman' hereinafter) was working with the respondent ('respondent Department' hereinafter) as a conductor since the year 1985. In the year 1992, the petitioner workman was suspended on the charges of non-issuance of tickets to the passengers and subsequently a chargesheet dated 8<sup>th</sup> September, 1992 was issued.
2. During the first year of the suspension period, the petitioner was provided subsistence allowance, i.e., the allowance equivalent to the paid leaves. Thereafter, the said allowance was reduced to 75% of the allowance paid in the first year.



3. In the year 1996, the petitioner was removed from the services *vide* order dated 14<sup>th</sup> June, 1996. Thereafter, the petitioner workman filed a claim bearing no. 1/2004 under Section 33C(2) of the Industrial Disputes Act, 1947 ('ID Act' hereinafter) seeking payment of difference in the subsistence allowance as paid by the respondent Department against the alleged approved allowance.
4. Pursuant to completion of the proceedings, the learned Labour Tribunal ('Court below' hereinafter) passed an order dated 17<sup>th</sup> November, 2004 dismissing the claim filed by the petitioner.
5. Aggrieved by the same, the petitioner has preferred the instant petition.
6. The learned counsel appearing on behalf of the petitioner submitted that the learned Court below erred in not appreciating that the suspension allowance ought to have increased if the period of suspension exceeds the particular period.
7. It is submitted that the learned Court below did not consider the model standing orders and rules regarding suspension, whereby, suspension allowance ought to have been 75% of the wages.
8. It is submitted that the petitioner workman had already suffered due to suspension and passing of the impugned order against him amounts to violation of his fundamental rights.
9. It is submitted that the learned Court below erred in holding that the plain reading of the relevant provision i.e. Regulation 15(2) of the Delhi Road Transport Authority Act, 1950 ('DRTA' hereinafter) means that the



petitioner workman is entitled to three quarters of the amount which he was getting in the first year.

10. In view of the foregoing submissions, the learned counsel appearing on behalf of the petitioner submitted that the present petition be allowed and the reliefs be granted as prayed.

11. *Per Contra*, the learned counsel appearing on behalf of the respondent Department vehemently opposed the present petition submitting to the effect that the learned Court below rightly adjudicated the claim of the petitioner and duly interpreted the relevant provision i.e. Section 15(2) of the DRTA to arrive at the conclusion of dismissing his claim.

12. It is submitted that the allowance given to the petitioner was strictly in accordance with the rules and the respondent Department did not violate any right of the petitioner.

13. It is submitted that Section 15(2) of the DRTA provides for reduction of the subsistence allowance upto 75% of the allowance payable to a suspended workman in the initial first year, therefore, the reduction in the petitioner's allowance was done in consonance with the same.

14. In view of the foregoing submissions, the learned counsel for the respondent submitted that the present petition, being devoid of any merit may be dismissed.

15. Heard the learned counsel for the parties and perused the records.

16. It is the case of the petitioner workman that the learned Court below wrongly adjudicated the claim filed under Section 33C(2) of the ID Act,



whereby, the petitioner challenged the reduction in payment of the subsistence allowance.

17. In rival submissions, the learned counsel for the respondent Department rebutted the contentions advanced on behalf of the petitioner submitting to the effect that the said reduction was done in accordance with the relevant provisions of the Statute governing the employees of the respondent Department, i.e. the DRTA Regulations.

18. Therefore, the limited question for adjudication before this Court is whether the claim of the petitioner workman has been wrongly dismissed by the learned Court below.

19. Before delving into the case at hand, this Court deems it appropriate to reiterate the scope of adjudication of a dispute by a Labour Court in a claim filed under Section 33C(2) of the ID Act. The said provision reads as under:

***“33C. Recovery of money due from an employer-***

*2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government; 1 [within a period not exceeding three months:]”*

20. Upon perusal of the said provision, it is made out that the ID Act grants a workman to file a claim under the above said provision to receive the benefits due to him which can be computed in terms of money.



21. Section 33C(2) of the I.D Act clearly provides for the remedy to a workman to approach the Labour Court with regard to the matters wherein the workman is entitled to receive a pre-existing benefit emanating from a pre-existing right.

22. Now, advertent to the issue at hand, the claim filed by the petitioner was adjudicated by the learned Court below in the following manner:

*“7. Today I heard both sides of this claim application. The relevant service rule in fact required interpretation and Counsel Sh. GS Charya representing workman argued that the Rule in question provided for 3/4 of the wages which workman had been drawing before is his suspension exceeded one year for the period beyond one year. He further argued that even logically if the management found suspension to continue beyond one year period then in absence of any service rule for workman responsible for delay in the domestic enquiry entitling management to reduce the subsistence allowance, the allowance, by its very nature called subsistence allowance, could not be reduced counsel emphasized that non-payment of such subsistence allowance as provided in the Service condition Regulation was illegality on the part of the management and workman was entitled to recovery this amount.*

*8. On the other hand, Counsel K.P. Gupta representing DTC pointed out that subsistence allowance during suspension period has been paid to the workman strictly in accordance with relevant service Regulation and Workman is not entitled to any further amount.*

*9. As seen above Issue No.1 has not been pressed by the management either by producing any evidence or material or by referring to any statutory provision of Motor Transport*



*Undertaking Act whereby the present claim application could be considered barred issue is accordingly held against DTC.*

*10. Management has not disputed workman's case that while employed as a conduct with the management, the applicant was placed under suspension on 01.09.1992. Contention of the management is that the workman has been paid suspension allowance in accordance with service regulation. In fact dispute between parties centered on the point of interpretation of the relevant service rule. Controversy arose as to interpretation of words "such an amount" whereas counsel Sh. Charya wanted this court to interpret these words as leave salary amount which workman would have drawn if he had not been under suspension and thus if his suspension exceeded one year then for the exceeded period beyond one year he was entitled to three quarter of this leave salary amount. On the other hand, counsel for the DTC stressed upon interpretation of these words as three quarters of "such an amount" which workman had been paid in the first years of his suspension.*

*11. The service condition regulation in question as referred to above provides that whether employee was placed under suspension he was entitled to subsistence allowance (I) Equal to leave salary which he would have drawn if he had been on leave on half pay for the first year of suspension and at three quarters of such an amount for any period subsequent thereto words "such an amount" is the contentious point. I think by use of word "An" emphasis is on the specific amount as referred to in the preceding part of Rule. Had it been an Intention to provide subsistence allowance at three quarters of the leave salary which workmen would have been entitled to be given under this service condition regulation then in place of words "such an amount" the substituted plain and simple words "leave salary" or to say three quarters of last monthly had wages which workmen had been drawing could have been used.*



*Provisions of such a service regulation condition as per the principles of interpretation of statute, are to be interpreted on this plain reading without assigning any other interpretation not suggested by the words used in the rule/regulation. To my view words "such an amount" refer to amount which workman was to be paid as subsistence allowance in the first year of the suspension and thus if suspension exceeded one year then he was to be paid three quarters of the amount he was being paid in the first year of suspension. I think there is no scope to interpret this provision by any further logic that subsistence allowance ought to increase if suspension exceeded one year when there was no fault on the part of workmen when the language of the relevant service regulation condition is plain and simple and does not suggest any other interpretation. Subsistence allowance at three quarters of such an amount for a period exceeded one year of suspension of the workman suggests at a rate three quarters of the amount which workman was being paid or to say entitled to in the first year of his suspension the services condition regulation specifically provides that he would be entitled to allowance equal to leave salary which he would have drawn if he had been on leave on half pay. Workman has admitted that he had been paid this subsistence allowance at half pay leave calculation during first year of his suspension. He is not entitled to three quarters of the full leave salary amount as suggested by Ld. Counsel by interpretation of the above referred service condition rule and to my considered view for subsequent suspension period of one year- Workman was entitled to three quarters of the amount he had been paid in the first year of his suspension which admittedly this amount has been paid to him. There remains nothing to be paid to him or to say workman entitled to any further amount. His claim Application is thus misconceived when bases upon above referred service regulation condition. Application liable to be dismissed."*



23. Upon perusal of the contents of the impugned order, it is made out that the learned Court below has dismissed the said claim by holding that the respondent Department adhered to the relevant rules governing the petitioner workman.

24. While dismissing the claim of the petitioner, the learned Court below observed that the plain reading of Section 15 makes it clear that a suspended employee shall be granted a subsistence allowance equivalent to the pay granted to an employee on paid leave.

25. The learned Court below further noted that the said provision provides for further reduction in the allowance if the suspension period exceeds one year and the suspended employee shall be entitled to only 75% of the allowance paid to him in the first year of suspension period.

26. The relevant part of the Section 15 of DRTA reads as under:

*“Suspension: (a) An employee under suspension will be entitled during the first year of suspension to subsistence allowance equal to the leave salary which he would have drawn if he had been on leave on half pay and for any period subsequent thereto at three quarters of such an amount. Provided that an employee may be granted in addition any compensatory allowance e. g., dearness, house rent etc., of which he was in receipt on the date of suspension to such extent and subject to such conditions as the suspending authority may direct.”*

27. A plain reading of the above said provision makes it clear that a suspended employee is entitled to an allowance equal to the leave salary which he would have drawn if that employee would have been on leave.





28. The reading of the subsequent part of the said provision also clarifies that the continuation of such suspension would lead to further reduction in the subsistence allowance and the suspended employee shall only be entitled to 3/4 of the amount payable to him in the first year of suspension.

29. In the impugned award, the learned Court below has taken the aforesaid interpretation for holding that the respondent Department had rightly reduced the subsistence allowance to 75% of the allowance paid to him during the first year of suspension.

30. While holding the same, the learned Court below interpreted the term 'as such' in a manner where the principal amount is the amount paid to the petitioner workman in the first year of suspension.

31. As per the interpretation of the said provision of the DRTA Regulation, this Court is of the opinion that the learned Court below rightly adjudicated the claim whereby, a plain reading of the relevant part of Section 15 suggests the same interpretation as adopted by the learned Court below.

32. During the course of proceedings, the learned counsel for the petitioner submitted that the respondent Department failed to provide for allowances to the petitioner, thereby, violating the statutory norms. However, the reading of the said paragraph clearly suggests that the payment of such allowances shall be at the discretion of the employer, and there is no compulsion to abide by the same.

33. In view of the same, this Court is of the view that the learned Court below has duly appreciated the position of law and rightly interpreted the provision governing a suspended employee of the respondent Department.



2024 : DHC : 3906



34. In light of the foregoing paragraphs, this Court is satisfied with the findings of the learned Court below and does not find any reason to invoke its jurisdiction provided under Article 226 of the Constitution of India.

35. In view of the above, the present petition being devoid of any merit is dismissed, and the order dated 17<sup>th</sup> November, 2004, passed by the learned Labour Court, Karkardooma, Delhi in I.D bearing No. 1/2004 is upheld.

36. Pending applications, if any, also stands dismissed.

37. The order be uploaded on the website forthwith.

**CHANDRA DHARI SINGH, J**

**MAY 14, 2024**  
**gs/av/ryp**

*[Click here to check corrigendum, if any](#)*