

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

% *Date of Decision : July 02, 2013*

+ **W.P.(C) 5537/2011**

DELHI TRANSPORT CORPORATION Petitioner
Represented by: Ms.Saroj Bidawat, Advocate.
versus

OM PAL SINGH Respondents
Represented by: Mr.K.Venkatraman, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE V.KAMESWAR RAO

PRADEEP NANDRAJOG, J. (Oral)

1. Learned counsel for the petitioner states that inadvertently copy of WP(C) 7781/2002 has been annexed as Annexure P-3 to the writ petition. Counsel states that copy of WP(C) 19816/2004 was to be filed as an annexure because of the reason said writ petition was transferred to the Central Administrative Tribunal and was registered as T.A.No.1364/2009. Impugned decision dated April 07, 2010 decides said writ petition. Counsel has handed over to us a photocopy of WP(C) 19816/2004.

2. Arguments heard.

3. The respondent was employed as a driver with DTC. On July 31, 1997 he met with an accident. The respondent could not resume duties and brought before a Medical Board was declared medically unfit resulting in he being prematurely retired from service on medical grounds as per an order dated November 03, 1999.

4. Challenging the order dated November 03, 1999 petitioner succeeded when writ petition filed by him was allowed with a direction that the respondent would be reinstated in service with all consequential benefits. The order in question is dated May 11, 2004.

5. In compliance with the order dated May 11, 2004 the respondent was taken back in service and was paid ₹3,52,425/- towards arrears of salary calculated by DTC with effect from November 03, 1999. Respondent raised a claim towards salary, leave encashment, bonus, medical allowance, uniform allowance and reimbursement of the amount spent by him on treatment when he was injured. He filed WP(C) 19816/2004 praying for said amounts to be paid. The writ petition was transferred to the Tribunal for adjudication as noted above. Vide impugned order dated April 07, 2010 the Tribunal has directed bonus, arrears of salary, medical allowance, washing allowance, arrears of time scale promotion scheme benefit and medical bills to be reimbursed.

6. The impugned decision passed by the Tribunal gives no reason for the directions which have been issued.

7. With reference to the counter affidavit to WP(C) 19816/2004 we find that on the subject of bonus the stand taken by DTC is that unless a person has worked for at least 30 days in a year, the employee would not be entitled to any bonus. With respect to arrears of salary the plea taken is that the period commencing from July 1997 till November 03, 1999 has to be treated separately viz-a-viz post November 03, 1999 for the reason the respondent was retired prematurely on November 03, 1999. For the prior period, on the subject of salary, it is pleaded that the respondent availed leave of various kinds and depending upon leave availed salary was paid. For example, pertaining to extra-ordinary leave no pay was payable. For the period post November 03, 1999 till respondent was

reinstated in service it is pleaded that arrears of salary in sum of ₹3,52,425/- were paid. With respect to washing allowance plea taken is that washing allowance is paid if a person wears the uniform and serves. It is pleaded that post disability suffered as a result of accident till he was prematurely retired and thereafter till when he was reinstated in service since respondent did not wear any uniform, the question of paying any washing allowance does not arise. With respect to medical bills we note that in the writ petition filed by the respondent he has categorically pleaded that medical bills were not being reimbursed. What were those bills? In what manner claim was admissible? Nothing has been pleaded.

8. Since the Tribunal has not dealt with the defence raised in counter pleading to the writ petition filed by the petitioner we dispose of the instant writ petition setting aside the impugned order dated April 07, 2010. T.A.No.1364/2009 is restored for adjudication on merits. The Tribunal is directed to decide T.A.No.1364/2009 by considering the defence raised by the writ petitioner herein; impleaded as a respondent No.1 before the Tribunal.

9. Parties shall appear before the Registrar of the Tribunal on July 29, 2013 who shall list T.A.No.1364/2009 before the appropriate Bench of the Tribunal.

10. No costs.

11. Dasti.

(PRADEEP NANDRAJOG)
JUDGE

(V.KAMESWAR RAO)
JUDGE

JULY 02, 2013/skb