

\$~8

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

+ W.P.(C) 1613/2013 & CM Appl. 3046/2013

DELHI TRANSPORT CORPORATION Petitioner

Through: Ms. Avnish Ahlawat with Ms. Latika Chaudhary,
Advs.

versus

MANOHAR LAL AND ANR Respondents

Through: None

%

Date of Decision: 16th February, 2016.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Despite a pass over, none is present for the respondent no. 1. Consequently, this Court has no other option but to proceed ahead with the matter.
2. It is pertinent to mention that the present writ petition has been filed challenging the impugned complaint and order dated 28th January, 2013 passed by the National Commission for Scheduled Castes (for short 'the Commission') on an application filed by respondent No. 1.
3. Learned counsel for the petitioner states that the Commission has no jurisdiction to enter into a service dispute of individual officers who belong to SC/ST category. She submits that the Commission only exercises powers of a Civil Court for the purposes of investigating the matter under Article 338(5)(a) or enquiring into complaint under Article 338(5)(b), but not for the purposes of

granting injunctions or passing orders revoking suspension or any other issue which has to be dealt with by the Civil Court.

4. No counter-affidavit has been filed in the present case despite repeated opportunities.

3. The Karnataka High Court in ***Karnataka Antibiotics and Another Vs. National Commission for SC and ST and Others, ILR 2008 KAR 3305*** has held as under:-

“10. Interestingly, here, in clause (8) of Article 338, the words used are “the Commission shall ... have all the powers of the Civil Court trying a suit”. But the words “all the powers of a Civil Court” have to be exercised “while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause 5”. All the procedural powers of a civil court are given to the Commission for the purpose of investigating and inquiring into these matters and that too for that limited purpose only. The powers of a civil court of granting injunctions, temporary or permanent, do not inhere in the Commission nor can such a power be inferred or derived from a reading of clause (8) of Article 338 of the Constitution.”

4. This Court in ***Union of India & Anr. v. National Commission for Scheduled Castes & Anr., WP(C) 2390/2012, decided on 28th May, 2014*** after referring to ***All India Indian Overseas Bank SC and ST Employees’ Welfare Association Vs. Union of India, 1996 (6) SCC 606*** and the judgment of a coordinate Bench of this Court in ***W.P.(C) 5468/2011 Municipal Corporation of Delhi vs. Lal Chand and Ors., decided on 17th September, 2013*** has held as under:-

“16.This Court is of the opinion that the Commission under Article 338 of the Constitution of India is not an adjudicatory body which can issue binding directions or injunction orders.

17.This Court is of the view that the reports of the Commission are recommendatory in nature and cannot be equated with decrees/orders passed by Civil Courts which are binding on the parties and can be enforced and executed. Commission's reports are not alternative to the hierarchical judicial system envisaged under the Constitution of India.

As this Court is of the view that Commission has no jurisdiction, the doctrine of estoppel offers no assistance to the respondent.”

5. In view of the aforesaid mandate of law, the present writ petition is allowed and the order dated 28th January, 2013 passed by the Commission is set aside and the complaint filed by respondent No. 1 before Commission is dismissed. Pending application also stand disposed of.

MANMOHAN, J

FEBRUARY 16, 2016
NG

