

\$~07

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

+ W.P.(C) 1768/2015

KUWAR PAL & ORS.

..... Petitioner

Through Ms. Komal Aggarwal, Advocate.

versus

DELHI TRANSPORT CORPORATION

..... Respondent

Through Ms. Awnish Ahlawat, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

28.11.2016

%

When the writ petition was called out in the morning, counsel for the petitioner had filed before us a copy of the order dated 22nd November, 2016, passed in Civil Appeal No. 11154/2016, *Surender Singh & Ors. Vs. Delhi Transport Corporation & Ors.*

We had passed over the matter to enable the counsel appearing for the respondent Delhi Transport Corporation to examine the said decision.

When the matter is called out on the second occasion, counsel for the respondent states that the present writ petition is covered by the aforesaid decision.

In view of the statement made, the impugned judgment is set aside in

terms of the ratio and directions given in the order dated 22nd November, 2016, which read:-

“7. In this view of the matter, the judgment of the High Court suffers from an error apparent on the face of the record. We, therefore, consider it appropriate in the interest of justice to set aside the impugned judgment and order and direct that in regard to all the 119 employees who were sought to be terminated, no action for termination shall be taken except in accordance with law, i.e., after an enquiry in which the employees would have an opportunity to show cause that the disability was acquired after their employment.

8. We make it clear that the DTC shall not be restricted to the usual enquiry but would be entitled to obtain a medical opinion as to whether the employees acquired the disability before or after their employment. We are of this view because the disability in question is a serious disability for a driver of a bus in which many people travel. Such a disability might also endanger the life of other people who are on the road. We also consider it appropriate to direct that there shall be an enquiry through medical board whether the employee acquires disability after his employment and if that enquiry is against the employee then, whether the employee is responsible for using deceitful means or suppressing his disability for seeking employment.

9. We further make it clear that this shall not prevent the DTC from terminating the services of the drivers on the ground that they are found to be colour-blind. However, the employees will be entitled for protection of their services under the Act if eligible in law. The appellants shall be treated to have been

reinstated for the purposes of the enquiry and shall be entitled to claim consequential benefits at the time of final decision of the enquiry, which shall be completed within a period of six months from the date of receipt of copy of this order.”

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

NOVEMBER 28, 2016
NA