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

+ **W.P.(C) 10306/2015**

DELHI TRANSPORT CORPORATION AND ANR Petitioners
Through: Mr Abhay N. Das, Adv.

versus

RAJESH KUMAR Respondent
Through: Mr Kishore Kumar Patel, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **11.05.2016**

1. On 18.03.2016, we had observed:

“.... A copy of the medical report received from All India Institute of Medical Sciences (AIIMS) will be made available to the counsel for the petitioners- corporation who will obtain instructions within four weeks from today.

Re-list on 11th May, 2016.

We are of the opinion that the petitioners should, in view of the opinion of the Medical Board, take an objective and fair opinion....”

2. The learned counsel for the petitioner has today filed before us copy of file notings, the operative portion of which reads:-

“..... In this view of the matter, it will be appropriate that accepting the medical report of AIIMS as well as categorical statement of the counsel of the workman given before hon. High Court (duly incorporated in the Order dated 03-11-2005) to forego the all past benefits employment under the Protection of Disability Act, Sh.

Rajesh Kumar is appointed afresh to the post of driver as also advised by the management's counsel. However, he must be in possession of valid driving licence and PSV badge at the time of joining duty as driver in the Corporation. The DTC management may give suitable instructions to the contesting advocate for apprising the hon'ble High Court accordingly with the prayer for passing a **consent order** in this regard to avoid any ambiguity/ legal complication at later stage....”

3. The petitioners have decided to give fresh appointment to the respondent to the post of driver, provided he has the valid driving license and a PSV Badge at the time of joining of duty.
4. The respondent was appointed as a driver in 2009 and while on probation had met with an accident on 24.07.2010. He remained on leave from 24.07.2010 to 05.07.2011. The petitioners had extended the probation period upto 10.08.2011. On joining, the respondent was asked to appear before the medical board of the DTC and was declared unfit for the post of driver in 2011. His services were terminated.
5. The respondent had then filed OA No.1139/2013, and the tribunal by the impugned order dated 22nd May, 2015 relying on Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1985 had granted relief.
6. Keeping in view the aforesaid facts, we think that the administrative decision taken by the petitioners should be accepted and the present writ petition can be disposed of in the aforesaid terms.
7. Learned counsel for the respondent states that the respondent

has the PSV Badge but his driving license for heavy motor vehicles, is to be renewed.

8. The respondent may complete the said formalities and approach the petitioners thereafter. If any papers or documents are required from the petitioners for this purpose, the same will be issued. It is also clarified that it is open to the respondent to either produce a fresh driving license or a renewed driving license for heavy motor vehicles.

10. The petition is, accordingly, disposed of.

SANJIV KHANNA, J

NAJMI WAZIRI, J

MAY 11, 2016

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