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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 9756/2015

Date of decision: 18th March, 2016

RAKESH DAGAR

..... Petitioner

Through Mr. G.S. Chaturvedi, Advocate.

versus

DELHI TRANSPORT CORPORATION

..... Respondent

Through Mr. Shantosh Kumar Tripathi, Standing
Counsel, DTC.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

SANJIV KHANNA, J. (ORAL)

Petitioner-Rakesh Dagar by this writ petition impugns order dated 1st April, 2015, passed by the Central Administrative Tribunal, Principal Bench (Tribunal, for short), whereby his OA No.497 of 2013 was dismissed. The petitioner had prayed that the respondent-Delhi Transport Corporation (DTC) should be directed to appoint him as a driver with all attendant benefits including grant of seniority etc. from the date he had reported for training.

2. Consequent to a selection process conducted by the Delhi Subordinate Services Selection Board, by letter dated 5th January, 2009, the petitioner was

asked to report for training. On 7th January, 2009, when the petitioner had reported for training he was asked to fill up his particulars in a format provided, which had a column relating to criminal cases pending against him. The petitioner had mentioned particulars of three criminal cases pending against him. These were, FIR No.318/2012, police station Kanjhawala under Sections 323/341/34 of the Indian Penal Code, 1860 (IPC); FIR No.1446/2006, police station Sultan Puri under Sections 323/341 IPC and FIR No.677/2007, police station Mangol Puri under Sections 337/279 IPC. In these circumstances, the petitioner was not allowed to join training.

3. After about two years, the petitioner made a representation dated 3rd February, 2011, stating that the three cases stand disposed of and he should be taken on duty. The petitioner did not receive a response, and was not asked to join. It is obvious that the prayer and claim made by the petitioner was not acceptable to the DTC.

4. The petitioner moved an application under the Right to Information Act on 3rd October, 2011 seeking information. The petitioner thereafter filed first appeal under the Right to Information Act and a further appeal before the Central Information Commission, which was disposed of in May, 2012. Pursuant to the last order, copies of file notings were supplied on 9th July, 2012.

5. On 6th February, 2013, the petitioner filed the aforesaid Original

Application before the Tribunal praying that he should be appointed, and granted benefits of seniority and all other benefits. The impugned order rejects the said prayers including the prayer for appointment.

6. It is an accepted and admitted position that the petitioner was involved and charge-sheeted in the aforesaid three FIRs, including FIR No.677/2007, police station Mangol Puri, which was under Sections 337/279 IPC. The petitioner also accepts that he had pleaded guilty in this charge-sheet and was admonished. In FIR No.1446/2006, police station Sultan Puri under Sections 323/341 IPC, also the petitioner was admonished and in addition directed to pay Rs.5,000/- as cost of the proceedings and compensation. In FIR No.318/2012, police station Mangol Puri, offences under Sections 323/341/34 IPC were compounded and the case was accordingly disposed of.

7. In the impugned order, the Tribunal has referred to the factual matrix and ratio of the Supreme Court's decision in ***Commissioner of Police and Ors. Vs. Sandeep Kumar***, JT 2011 (3) SC 484.

8. Learned counsel for the petitioner has drawn our attention to the decision of a Division Bench of this Court in W.P.(C) No.8094/2010, titled ***Rahul Yadav Vs. CISF & Anr.*** dated 14th February, 2011. In this decision, the Division Bench has drawn distinction between grave and serious offences involving moral turpitude and other technical and insignificant cases which are sometimes registered and then settled and disposed of. The first category

would normally, justify denial of public employment, but the same ostracism may not be applied when the violations are trivial and insignificant.

9. The petitioner was involved and facing prosecution in three separate FIRs at the time he was called to fill up the relevant form in January, 2009. The first FIR was registered at police station Kanjhawala, second at police station Sultan Puri and the third one at police station Mangol Puri. The third FIR was under Sections 337/279 IPC, which related to traffic offences and accident. The form required each candidate to fill-up personal details to assess desirability and check the past antecedents. The petitioner obviously on filling up the form was informed that he cannot be appointed. Thereafter, he had pleaded guilty in two cases and was admonished. In the second case i.e. FIR No.1446/2006, police station Sultan Puri, the petitioner was also asked to deposit Rs.5,000/- as costs and compensation. In the third case, arising from FIR No.318/2012, police station Kanjhawala, offences under Sections 323/341/34 IPC were compounded. The aforesaid exercise in getting the three cases disposed of, had taken more than two years. The petitioner, no doubt, had sought information and documents under the Right to Information Act, but this had not prevented him from approaching the Tribunal. Thus there was delay in approaching and filing the OA before the Tribunal.

10. It was for the petitioner to bring out and state facts to show and

establish that the acts, subject matter of the three FIRs, were trivial or insignificant, not involving moral turpitude. Petitioner has not tried to justify or explain the nature and character of allegations made against him, or that the criminal case did not justify or warrant non appointment. No such attempt was made before the Tribunal or before us.

11. Looked from all angles, including a number of different criminal cases in which the petitioner was involved, the order of Tribunal does not require any interference. The writ petition is dismissed.

SANJIV KHANNA, J.

NAJMI WAZIRI, J.

MARCH 18, 2016
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