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

+ W.P.(C) 375/2016 & CM No. 1558/2016

DELHI TRANSPORT CORPORATION & ORS Petitioners
Through: Mr Uday N. Tiwary & Mr Sunil Kr. Jha,
Adv.

versus

ASHOK KUMAR Respondent
Through: Mr N. Gautam, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **17.05.2016**

1. The Delhi Transport Corporation and two others have impugned the order dated 27.08.2015 passed by the Principal Bench of the Central Administrative Tribunal, whereby OA No. 2791/2015 has been allowed, with the direction that petitioners would not charge any interest on the recoverable amount of Rs. 4,06,774.41/-, and interest if already recovered shall be refunded to Mr Ashok Kumar, who is the respondent before us.

2. The contention of the petitioners is that they were not given fair and adequate opportunity to present their case and facts before the Tribunal. The original petition listed for first hearing on 31.07.2015, when notice was accepted by the standing/ nominated counsel. The impugned order dated 27.08.2015 was passed on the very first date of hearing when the original application was listed after issue of notice.

It is submitted that on the said date the nominated counsel appointed by the petitioners had appeared before the Tribunal and prayed for an adjournment. Our attention is also drawn to Annexure A-2 and Annexure A-6. It is urged that these documents would show that levy and charging of interest is justified.

3. We have heard the learned counsel for the respondent. He submits that the aforesaid annexures would not justify levy of interest in terms of the decision of the Supreme Court in ***State of Punjab & Ors. etc. vs. Rafiq Masih (White Washer) etc.* 2015 (4) SCC 334.**

4. In the present case, we would not like to comment on the merits and whether or not the levy of interest is justified, as this issue, we feel, should be first examined by the Tribunal. We believe that the petitioners have been denied full and fair opportunity to present their case. The OA was first listed on 31.07.2015 and notice was accepted. The OA was allowed on 27.8.2015. The petitioners had not filed their reply. The impugned order does not take into account the orders relied upon by the petitioners in support of their contention. We do not comment on the documents/ orders etc. as the said documents/ orders have not been examined by the Tribunal.

5. In view of the aforesaid, we set aside the order dated 27.08.2015 with an order of remand for fresh adjudication of OA No. 2791/2015. To cut short the delay, we direct that the petitioners will file their reply within a period of four weeks from today. No further extension of time would be granted. The respondent may file his rejoinder within four weeks after reply is served. The parties are directed to appear before the Tribunal on 18.07.2016, when a date of

hearing will be fixed. It is pointed out by the counsel for the respondent that the respondent has four years of service left. Till 18.07.2016 i.e. the date when the OA is listed before the Tribunal, the petitioners will not recover interest. The Tribunal can modify the aforesaid interim order.

6. The petition is disposed of. No costs.

SANJIV KHANNA, J

NAJMI WAZIRI, J

MAY 17, 2016

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