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

+ W.P.(C) 936/2017

DELHI TRANSPORT CORPORATION Petitioner
Through: Mr. Sarfaraz Khan, Advocate

versus

MAHAVIR SINGH Respondent
Through: None

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

% **ORDER**
22.03.2017

The impugned order dated 8.9.2016 passed by the Principal Bench of the Central Administrative Tribunal ('Tribunal') allows OA No.100/2903/2013 filed by Mahavir Singh, *inter alia*, recording that the Termination Order dated 21.11.2012 was stigmatic and, therefore, cannot be sustained. The respondent has been directed to be reinstated in service, with consequential benefits but the backwages have been restricted to 50%. Liberty has been granted to the petitioner to initiate appropriate disciplinary proceedings for the alleged misconduct.

2. On 18th February, 2009 the respondent was appointed as a driver in the Delhi Transport Corporation. He was on probation when his services

were terminated vide order dated 21.11.2012, which reads as under:

“DTC HARI NAGAR DEPOT-1

NEW DELHI-64

No.HND-1/Dr./12/4237

Dated:21.11.2012

Shri Maharvir Singh Driver B.No.24856, T.No.66846 was appointed Driver w.e.f. 08.12.2009 in a condition of probation vide PLD's letter No.PLD-III/DSSSB/Driver other state/Apptt./09/4064, dated 02.12.2009 in this Corporation. During the probation period, he caused a Fatal Accident and his case is lying pending in the Criminal Court. Hence, his services from this Corporation are hereby terminated with immediate effect under clause 9(a)(i) of the DRTA (Conditions of appointment and services) Regulation, 1952. He is required to deposit all the DTC articles in his possession within 24 hours of the receipt of this memo. Non deposit of the DTC articles by him in accordance with the instructions contained in office order No.21 dated 27.01.1954, will render him liable to pay a penalty of Rs.2/- per day for the days he keeps any of the DTC articles in his possession after the specific period of 24 hrs.”

The Tribunal is right in holding that the aforesaid order is stigmatic and punitive. The order is not an order of termination simplicitor. The said order specifically refers to a fatal accident and that a criminal case was filed against the respondent. These adverse and stigmatic findings had resulted in the termination of services. The Tribunal has referred to the several judgments of the Supreme Court, including the recent decision in ***Ratnesh Kumar Choudhary v. Indira Gandhi Institute of Medical Sciences, Patna, Bihar & Ors., 2015(15) SCC 151*** to draw distinction - when services are

terminated simplicitor or when a probationer is discharged on the ground of misconduct, inefficiency, which amounts to punishment.

3. In the facts of the present case, we do not think that the impugned order can be treated as an order of termination simplicitor and not as an order which would be stigmatic or punitive.

4. The writ petition is accordingly dismissed. No costs.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

MARCH 22, 2017

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