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

+ **W.P.(C) 2492/2017 & CM Nos.10777-78/2017**

MAHINDAR KUMAR Petitioner

Through: Mr. Naipal Singh, Advocate

versus

JAIPAL SINGH ANAND AND ORS Respondents

Through

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **21.03.2017**

After some hearing, learned counsel for the petitioner seeks liberty to

withdraw the present writ petition and states that he would like to file an appeal before the Delhi Cooperative Tribunal ('DCT'), challenging the Award dated 3.10.2006. Without commenting on the merits, we dismiss the writ petition as withdrawn. The petitioner is at liberty to file an appeal before the DCT, challenging the Award dated 3.10.2006. It will be equally open to the respondents to question the challenge of the appeal and the application seeking condonation of delay, if filed, in accordance with law.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 21, 2017/tp

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

+ **W.P.(C) 12221/2015 & CM Nos.32444-45/2015**

TUSHAR RANJAN MOHANTY Petitioner

Through: Petitioner in person

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. R.N. Singh & Mr. A.S. Singh,
Advocates

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **21.03.2017**

Learned counsel for the respondents states that on examining the rejoinder filed by the petitioner, he requires some clarification from the officers.

At the request of learned counsel for the respondents, relist on 7.7.2017.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 21, 2017

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

+ **W.P.(C) 2571/2017**

DELHI TRANSPORT CORPORATION Petitioner
Through: **Mr. L.K. Passi, Advocate**

versus

RAJENDER SINGH Respondent
Through

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **21.03.2017**

CM No.11097/2017

Allowed, subject to all just exceptions.

The application is disposed of.

WP(C) No.2571/2017 & CM No.11096/2017

Relist on 30.3.2017.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 21, 2017

tp

\$~24

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

+ W.P.(C) 2562/2017 & CM Nos.11083-84/2017

YOG RAJ

..... Petitioner

Through: Mr. Anish Agarwal & Mr. Avi
Tandon, Advocates

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Ms. Saroj Bidawat, Advocate for
respondent No.1
Mr. Naresh Kaushik & Ms.
Shriambhra, Advocates for UPSC

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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21.03.2017

Learned counsel for the respondent/UPSC, who appears on advance notice, submits that this writ petition is not maintainable, in view of the decision of the Supreme Court in *L. Chand Kumar v. Union of India, 1997 (2) SCR 1186*. The petitioner is questioning the selection/recruitment process and also the vires of the age requirements, as stipulated in the Examination Notice No.06/2017-CSP dated 22.2.2017 and Regulation 4 of the Indian Administrative Service (Appointment by Competitive Examination), Regulation, 1995.

At this stage, learned counsel for the petitioner states that he would like to withdraw the present writ petition and approach the Tribunal. The writ petition is dismissed as withdrawn, with liberty as prayed for, without expressing any opinion on merits.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 21, 2017

tp

\$~21

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

+ W.P.(C) 2511/2017 & CM Nos.10867-68/2017

RAJNEESH KUMAR Petitioner

Through: Mr. T.P. Singh, Advocate

versus

LT GOVERNOR AND ORS Respondents

Through: Mr. Piyush Kalra, ASC

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **21.03.2017**

Rajneesh Kumar, in this writ petition, impugns the order dated 9.11.2016, whereby the Principal Bench of the Central Administrative Tribunal (hereinafter 'Tribunal' for short) has dismissed OA No.100/4191/2015.

2. The petitioner, upon selection, was appointed as Electronic Mechanic on probation in the Delhi Metro Rail Corporation ('DMRC'), vide letter/offer of appointment dated 3.1.2014.

3. While on probation, the petitioner's services were terminated vide Office Order dated 20.10.2015, which reads as under:

"DELHI METRO RAIL CORPORATION LTD.

No.DMRC/HR/O&M/13997/2015

Dated: 20.10.2015

OFFICE ORDER NO.858/2015

In terms of Clause No.6 of the Terms and Conditions of the offer of appointment issued vide DMRC's letter No. DMRC/O&M/HR/1/12013/84802310 dated 03.01.2014, the services of Shri Rajneesh Kumar, Maintainer/E&M (Emp. No.13997) in the pay scale of Rs.8000-14140/- are hereby terminated during probation period with immediate effect. Shri Rajneesh Kumar, Maintainer/RS will cease to be DMRC employee with effect from 21.10.2015".

4. The petitioner had challenged the said termination order in the aforesaid OA, which, by the impugned order, has been dismissed.

5. Learned counsel for the petitioner has drawn our attention to the Annual Performance Assessment Report ('APAR') for the year 2014-2015, which records that the petitioner had poor health due to slip disk and, therefore, could not perform field work or train related maintenance or repair activities. The petitioner could not lift any equipment and this had affected his overall performance. The petitioner submits that poor medical condition is the reason and cause why his services have been terminated. Reliance is placed on Section 47 of the The Persons With Disabilities (Equal Opportunities, Protection Of Rights And Full Participation) Act, 1995 and the OM dated 25.2.2015 issued by the Ministry of Personnel, Public

Grievances & Pensions, Department of Personnel & Training.

6. The Tribunal has not accepted the said contention for several reasons.
7. In particular, it may be noted that the competent authority, vide letter/note dated 18.2.2015, had referred to the refusal of the petitioner to do assigned jobs. For the sake of clarity, we would like to reproduce the said noting:-

“DMRC/RS/SPD/Elex/2015-11

Dated 18.02.2015

NOTE

Subject: Refusal of Assigned job by a staff

With lots of reluctance, I am writing this letter to you as a final resort. This letter is regarding a formal complaint about a particular staff, Mr. Rajneesh Kumar, Employee No.13997. Mr. Rajneesh works in the Lab under my supervision, and has been an employee of the company for the past one year. The complaint against him is that he is non-responsive and dismissive in attitude. Initially he was trained & assigned the basic work related to repairing of DC lights & RAD cards, which he performed. But with the growth of time, when wide scope exposure of train and medium level of repairing was assigned to him, he told himself medially incapable due to “Slipped Disc” problem. He required assistance for holding & placing the equipments as he cannot sway, which was supported lot of times to him. Considering the various activities of section, in a long run, it seems impractical to engage one staff with him for such type of assistance. It kills the

time of other assisting staffs & overall affects their performance.

As per his statement, he should be given some light duty job. The same was considered due to his medication & assigned him the sitting job, i.e., repairing of light weight equipments such as PIB/TNI/DIF/PAB Overhauling or Tail Light repairing. He adamantly reverted by denying to repair/overhaul PAB over PIB without any reason. Such a person cannot be tolerated by the Lab as section's requirement & responsibilities are wide enough to bear such staff. For the proper functioning & optimal performance of Lab, Management is requested to look in the matter.

Put up for your kind consideration.

Sd/- Garima Bhadauria

ASE/RS/SPD.

M/RS/SPD

Sh. Rajneesh is instructed to give a 'show cause' for the same, in writing, latest by 20.02.2015 and submit to ASE/HR/SPD. ASE/HR/SPD to put up the received reply."

A reading of the Note will indicate that the petitioner was given light duty sitting job, owing to his health condition. However, the petitioner refused to carry out even the assigned tasks.

8. This is not a case where the respondents were not conscious or were unconcerned about the ailment and medical condition. They gave due

consideration to the same, for the petitioner was given light duty and sitting job.

9. Learned counsel for the petitioner has also shown to us the file noting dated 23.2.2015, which was possibly not filed before the Tribunal. However, a copy of the same is available with the petitioner. This noting reads as under:

“Reply submitted by Sh. Rajneesh nowhere indicates his incapability in maintenance of small equipments like PAB and other, as entrusted by his section-incharge. However, DMRC on ethical and professional grounds always helped the staff in his speedy recovery by assistance provided by his colleagues in lifting the heavy equipments and by not entrusting the staff for any train borne jobs.

Staff has not heeded to advices from undersigned and his Section Incharge during verbal counselling and is adamant in doing a single job, which is not acceptable to DMRC and its work ethics. AM/Electrical may pl. initiate a negative D&AR case against the staff, if there is no sign of improvement in his working.

Support to best possible extent by Section Incharge has already been shown but the support is taken to his right by the staff.

AM/Electrical may pl. see & do the needful.”

The said noting indicates that the respondent DMRC, on ethical and professional grounds, had helped the petitioner to ensure speedy recovery.

Albeit, the petitioner did not show any interest in the train job. The petitioner did not pay any heed to the advice of his seniors and verbal counselling. He was adamant on doing a single job. This was not acceptable. The note had stated that if there was no improvement in his working, negative recording may be made in the APAR. This noting is dated 23.2.2015.

10. Termination of service on account of sickness or ailment would be completely unacceptable. At the same time, an employee, whether on probation or otherwise, must be dedicated and committed towards the tasks and work assigned to him. The two notes referred to above reflect and show that the senior officers were considerate and kindly disposed and the petitioner was accordingly assigned light duty and sitting job. In spite of the warning letter issued in February, 2015, the petitioner continued to remain abrasive and disobedient. The Order of Termination from service during the probation period was passed nearly eight months thereafter, on 20.10.2015. Thus, opportunity and chance was given to the petitioner to improve. The order of termination was not sudden, but after counselling, and warnings to meliorate, but without positive results. In the given facts, therefore, we would not collate and connect the medical ailment of slip disc as the cause of termination. It would be presumptuous to disbelieve and disregard the

respondents' version in the present factual matrix and hold that they had acted in a high handed and tyrannous manner. The respondents clearly did not act in haste or hurry. The termination was on account of the inflexible and obstinate attitude as well as the recalcitrance and defiance to do the work assigned to him.

11. We do not find any error in the impugned order of the Tribunal. The writ petition is dismissed. The pending applications are also dismissed.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 21, 2017/tp

\$~20

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

+ **W.P.(C) 8553/2014**

UMESH KUMAR JAIN & ORS.

..... Petitioners

Through: Mr. Chinmoy Pradip Sharma, Mr.
Prmtosh Misra, Mr. Sayan Ray & Mr.
Vishal Balecha, Advocates

versus

REGISTRAR CO-OPERATIVE SOCIETIES & ORS..... Respondents

Through: Mr. Anuj Aggarwal, ASC
Respondent No.3 in person
Mr. Rahul Kumar Singh, Advocate
for respondent No.6
Mr. Vinay Goyal, Advocate for
respondent No.7

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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21.03.2017

RP No.110/2017

The application for review is misconceived and not maintainable.

Learned counsel for the applicant submits that the applicants have prayed that new flats may be constructed.

2 .The new flats cannot be constructed without the approval of the General Body, approvals, sanctions etc.. The application for review is also not maintainable, in view of Order XLVII read with Section 114 of the Code

of Civil Procedure, 1908.

3. The application is dismissed.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 21, 2017

tp

\$~23

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

+ W.P.(C) 2555/2017 & CM No.11044-45/2017

COMMISSIONER OF POLICE

..... Petitioner

Through: Mr. Himanshu Latwal, proxy counsel

versus

RAJ KUMAR

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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21.03.2017

At the request of learned counsel for the petitioner, who is stated to be
indisposed, relist on 13.4.2017.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 21, 2017

tp

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

+ W.P.(C) 9857/2015 & CM No.23778/2015

UNION OF INDIA & ANR Petitioner

Through: Mr. B.P. Singh, Advocate

versus

LALIT KUMAR Respondent

Through: Mr. M.K. Bhardwaj, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **21.03.2017**

The learned counsel for the respondent states that he would like to file a response to the rejoinder-affidavit, in view of the new facts averred in the rejoinder-affidavit. We permit the respondent to file the same within a period of four weeks from today.

Relist on 8.8.2017.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 21, 2017

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