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

\+ W.P.(C) 2571/2017, C.M. Nos. 11096-11097/2017

DELHI TRANSPORT CORPORATION ..... Petitioner

Through: Mr. L.K. Passi, Advocate along with Mr. Rubi Pasi and Mr. Ravi Kumar, Advocates.

versus

RAJENDER SINGH ..... Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% 18.05.2017

The petitioner assails the order dated 24.11.2016 passed by Central Administrative Tribunal (CAT) in Original Application no. 100/4307/2014 whereby the said Original Application preferred by the respondent has been allowed and his termination order vide the letter dated 01.02.2013 has been set aside. The reason for the said termination being set aside is that the same is stigmatic and it has been passed without holding an enquiry and finding the respondent guilty of misconduct.

The respondent was appointed as a driver in DTC. During the course of his employment, he was involved in a road accident and, on that account, his probation was extended. The offence registered against him was compounded and he was let off on probation.

Thereafter, the petitioner sought to terminate his services after giving him a show-cause notice dated 02.01.2013 and inviting his reply. However, no formal enquiry was held to prove the alleged misconduct on his part. This was despite the fact that the Accident Committee of DTC had opined that the accident was not caused on account of the fault of the respondent. The order of termination dated 01.02.2013 issued to the respondent reads as follows:-

"D.T.C. HARI NAGAR DEPOT-II : NEW DELHI.

NO. HND-SI/G.0./13/453 *DATED: 1.2.2013*

A show-cause notice No. HND-II/GO/13/34 dated 2.1.13 regarding termination from the services of the Corporation was issued to Sh. Rajinder Singh, S/o Sh. Raim Kishan, Driver, B.No. 23025, T.No. 64986. He has submitted the reply of the show-cause notice, which was considered thoroughly but found not satisfactory. Hence the proposed punishment is hereby confirmed i.e.

Termination from the services of the Corporation with immediate effect under Clause 9{a) (i)- of the DRTA {Conditions of Appointment & Services) Regulation, 1952.

He is required to deposit all the articles of Delhi Transport Corporation (i.e. Identity Card cum bus pass, Badge, Medical Card etc. in his possession in the office of the undersigned with-in 24hrs. of the receipt of this orders, failure to do so will render him liable to pay penalty of Rs. 2/- per day for the days he keeps any of the DTC article in his possession after the specific period of 24 hrs. or in case of loss of DTC articles, a sum of Rs. .500/- will be recovered in accordance with the provision as contained in the office order No. 1 dt. 20.1.1992.

DEPOT MANAGER"

The Tribunal had rejected the petitioner's submission that the services of the respondent could be terminated without holding an enquiry since he was on probation by observing that the termination was stigmatic. The Tribunal has taken note of the well settled legal position that even a probationer's employment cannot be terminated, without holding an enquiry and finding the probationer guilty of misconduct, if the termination is founded upon an alleged misconduct and if the termination order is stigmatic.

The aforesaid termination order-on face of it, is clearly stigmatic since it refers to the show-cause issued to respondent; the reply received from him-which was found to be not satisfactory, and; since the order records, "*hence, the proposed punishment is hereby confirmed i.e. Termination from the services of the Corporation with immediate effect under Clause 9 (a) (i) of the DRTA (Conditions of Appointment & Services Regulation, 1952)".* It has been passed without holding an enquiry against the respondent and finding him guilty of misconduct.

In view of the aforesaid, we find absolutely no merit in the present petition and dismiss the same.

Dasti.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 18, 2017
ss