

\$~6.

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

+ W.P.(C) 9180/2016 and CM APPL. 37132/2016

DELHI TRANSPORT CORPORATION

..... Petitioner

Through: Mr. U.N. Tiwary, Advocate

versus

USHAM KUMAR

..... Respondent

Through: Mr. Amit Kumar, Advocate

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
26.04.2017

%

The petitioner/ DTC has assailed the order dated 13.01.2016 passed in O.A. No.1871/2014 by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal). The tribunal has allowed the said O.A. preferred by the respondent and directed his reinstatement in service as a driver, however, without backwages. It has been directed that he shall be paid the full salary with effect from the date of the order of the tribunal by taking into account the increments which otherwise would have been due to him had he performed his duties.

The background in which the said order came to be passed may be summarily noted. The respondent was recruited as a driver in the DTC.

While he was on probation, it came to notice that he had concealed the fact that he was involved in a fatal accident before his being recruited. On that premise, departmental proceedings were initiated against him. The disciplinary authority ordered his removal from the service. The appellate authority, however, allowed the appeal preferred by the respondent.

Since the respondent was not reinstated in service, he preferred the aforesaid O.A. It appears that before the tribunal, it was contended by the petitioner that the said appellate order had been reviewed by the reviewing authority. However, the tribunal has observed that there was no order passed in the review/ revision. Consequently, the O.A. was allowed.

Learned counsel for the petitioner has referred to the file notings, which were also placed on record before the tribunal. The file notings merely show the consideration of the case of the respondent, post the passing of the appellate order. Admittedly, no final order has been passed by the reviewing authority, which has been communicated to the respondent. Moreover, it is not even denied by the petitioner that there was no compliance of the principles of natural justice inasmuch, as, the petitioner was not informed of the tentative view that the reviewing authority may have had; he was not given the opportunity to represent before the reviewing authority, and; no reasoned decision has been communicated to the respondent upsetting the decision of the appellate authority in favour of the respondent.

In these circumstances, we are of the view that the direction issued by the tribunal for reinstatement of the respondent is perfectly justified. We, therefore, do not consider it necessary to interfere with the impugned order. However, we make it clear that it shall be open to the petitioner to deal with

the appellate order in accordance with the rules and in compliance with the principles of natural justice, if it chooses to take any further proceedings in the matter.

The impugned order passed by the tribunal shall not come in the way of the petitioner in undertaking any such exercise in accordance with law.

The petition stands disposed of in the aforesaid terms.

Dasti.

VIPIN SANGHI, J

DEEPA SHARMA, J

APRIL 26, 2017

sr