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

+ **W.P.(C) 10139/2017 & CM APPL. 41404-07/2017**

DELHI TRANSPORT CORPORATION & ANR Petitioners

Through: Ms. Aditi Gupta, Advocate with
Mr.Kanwal Jit Singh, Depot Manager.

versus

SONU KUMAR

..... Respondent

Through: Mr.Sachin Chauhan, Advocate.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **27.11.2017**

1. This order is in continuation of the order dated 16.11.2017, on which date, noting that the petitioners/DTC have assailed an interim order dated 01.09.2017, passed by the learned Central Administrative Tribunal where the respondent herein has challenged the charge-sheet dated 27.03.2017, issued against him on the allegation that his driving license is not genuine, the learned Tribunal has directed the petitioners/DTC to pay the respondent, his salary as per his entitlement, which had remained unpaid since 20.03.2017.

2. We had enquired from learned counsel for the petitioners/DTC as to whether any departmental inquiry is pending against the respondent. Learned counsel had stated that a departmental inquiry is pending but the respondent is deliberately staying away therefrom, due to which not much

progress has been made. Further, she had stated, on enquiry, that though a charge sheet was issued to the respondent on 27.03.2017, the petitioners/DTC has not passed any suspension order till date.

3. Given the above position, we had expressed a view that there appears no justification for interfering with the impugned order as the petitioners/DTC has not even taken any steps to suspend the respondent and since he continues to remain on the rolls of the DTC, he is entitled to receive his salary for the entire period in question.

4. Learned counsel for the petitioners/DTC had then sought an adjournment to enable her to obtain clear instructions. While adjourning the matter for today, it was directed that the concerned officer, who had issued the charge sheet against the respondent, shall remain present on the next date.

5. Mr. Kanwal Jit Singh, Depot Manager of the petitioners/DTC is present today and on inquiring from him, he submits that though there is an option available with DTC of suspending the respondent, on issuance of a charge sheet against him, or even if a charge sheet is in contemplation, the Department decided to put him on “off duty”. We have enquired from the officer if he had obtained any legal advice before placing the respondent on “off duty” instead of suspending him. He states that no such opinion was taken before adopting the above procedure.

6. The petitioners/DTC were conscious of the fact that they had not taken any step to suspend the respondent on serving him with a charge sheet. At least the observations made in the order dated 01.09.2017 passed by the Tribunal ought to have prompted the Department to take appropriate steps at the earliest. Unfortunately, the petitioners/DTC appears to have turned a

deaf ear to the said order, directing them to pay the respondent his salary, as per his entitlement, with effect from 20.03.2017. In other words, due to the inaction on the part of the petitioners/DTC, the position that subsists today, is the same as was subsisting on 27.03.2017.

7. The petitioners/DTC could have at least taken steps to suspend the respondent in the meantime, but it has remained under a misguided impression that the pendency of the inquiry proceeding is not sufficient ground to suspend an employee against whom the allegations levelled are as serious as procuring a fake driving license for seeking employment on the post of a driver. In such circumstances, we see no reason to interfere with the impugned order. The present petition is accordingly dismissed on merits along with pending applications. We leave it to the Tribunal to decide as to whether any orders are required to be passed by it for recovering the amounts from the defaulting officers that shall have to be paid by DTC to the delinquent employee on account of non-issuance of a suspension order.

8. At this stage, learned counsel for the respondent states that the petitioners/DTC are routinely following the practice of arbitrarily placing employees, who are facing inquiry proceedings or even otherwise, on “off duty”, without issuing any suspension order, though there is no rule that empowers them to do so.

9. This is most unacceptable. In the first instance, it is deemed appropriate to direct the CMD, DTC to enquire into the aforesaid issue and thereafter, file an affidavit stating *inter alia* as to whether those In-charges of various Depots of the petitioners/DTC all over the city, have been adopting the practice of placing employees facing inquiry or even otherwise, on “off duty” and if so, the basis of passing such orders may be indicated.

The affidavit shall also point out the number of cases where departmental proceedings are pending but no orders have been issued, suspending a delinquent employee and the reason therefor. It shall be explained as to why are expeditious steps not being taken by DTC to suspend such employees, like the respondent herein, who are facing departmental enquiries, especially in the light of the submission made by the other side that those employees, who are facing departmental enquiries, are not being assigned any other duty. In other words, funds from public exchequer are being disbursed to employees without taking any work from them. Needful shall be done within six weeks with a copy to the counsel for the respondent.

10. List on 17.01.2018, to await the affidavit of the CMD, DTC.

HIMA KOHLI, J

REKHA PALLI, J

NOVEMBER 27, 2017

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