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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 15.11.2019

+ W.P.(C) 12028/2019

FATEH SINGH

..... Petitioner

Through: Mr. Rupesh Kumar Singh,
Advocate with Mr. Harsh
Vardhan, Advocate.

versus

DELHI TRANSPORT CORPORATION THROUGH THE
CHAIRMAN

..... Respondent

Through: Mrs. Avnish Ahlawat, Standing
Counsel with Mr. Nitesh Kumar
Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

G.S.SISTANI, J. (ORAL)

1. The present petition is directed against order dated 21.01.2019 passed by the Central Administrative Tribunal ('Tribunal' for short) by which O.A. No.4018/2013 filed by the petitioner has been dismissed.

2. With the consent of parties, the writ petition is set-down for final hearing and disposal at the admission stage itself.

3. On 20.09.1974, the petitioner, who is an ex-service man, was appointed as a security guard with the respondent/DTC. He made an application to the respondent on 29.11.1978 seeking permission to continue further studies and to appear in the examination for matriculation; and such permission was granted to the petitioner.

4. The petitioner subsequently informed the department that he had cleared the matriculation examination from Uttar Pradesh Madhyamik Council and furnished a certificate. However, on the basis of an anonymous complaint a letter dated 20.08.2008 was sent by the respondent to the Secretary, Madhyamik Educational Council, U.P., Board of High School and Intermediate U.P. Allahabad seeking to verify the certificate furnished by the petitioner. Reply to the said letter was received from the Assistant Secretary (Verification) Allahabad on 22.09.2008 stating that as per the record maintained by them, in the year 1979 one Sh. Om Pal Singh son of Jai Singh had appeared in the examination against Roll No.643330 and not the petitioner Shri Fateh Singh son of Sh. Dalip Singh.

5. In view of the above, on 11.11.2008 the Deputy Manager (Personnel) intimated the Senior Manager (Security) to initiate disciplinary proceedings against the petitioner for submitting a false high school certificate.

6. Charge-sheet was issued on 12.12.2008 and an Enquiry Officer was appointed. Thereupon the petitioner provided a fresh letter from the U.P. Board to the Enquiry Officer on 13.03.2009 affirming that he had cleared high school from the said Board. Once this letter was sent for re-verification, the enquiry proceedings were dropped; and infact in the month of July, 2009 the petitioner was promoted to the post of Security Inspector.

7. In the meanwhile, on 27.07.2009, responding to its query the UP Madhyamik Educational Council informed the respondent that the U.P. Board had not issued any letter to the petitioner confirming that he had cleared high school from the UP Board.

8. Resultantly, another show cause notice was issued to the petitioner on 02.09.2009. The petitioner replied to the show cause notice; a fresh charge-sheet was issued; and the petitioner was reverted to the original post of Assistant Security Inspector on 17.07.2010.

9. The petitioner retired from service on 30.09.2010.

10. A show-cause notice was issued to the petitioner as to why the punishment of forfeiture of 100% gratuity be not imposed. Reply to the show cause notice was filed; and a final order was passed on 23.03.2012. The departmental appeal filed against order dated 23.03.2012 was dismissed; after which

O.A. No.4018/2013 was filed before the Tribunal, which was also dismissed and has led to the filing of the present petition.

11. Learned counsel for the petitioner has reiterated the submissions made before the Tribunal. He submits that the order passed by the respondent is harsh; and that the petitioner belongs to the weaker section of society; and accordingly the order of 100% forfeiture of gratuity may be recalled.

12. Mrs. Ahlawat, learned standing counsel for the respondent on the other hand submits that there is no infirmity in the order of the Tribunal, which would require interference. Counsel states that the petitioner has tried to deceive the department, not once but twice, and thus no leniency should be shown to the petitioner.

13. We have heard learned counsel for the parties. The only ground urged before us is with regard to the quantum of punishment awarded. We are conscious that, ordinarily, courts do not interfere with the quantum of punishment unless the same shocks the judicial conscience or the order is on the face of it bad in law or suffers from legal infirmity.

14. In the present case, the petitioner is an ex-service man. He joined the department in the year 1974 and has worked with the department for more than 36 years as Security Guard. Counsel for the petitioner has strenuously urged before us that

he belongs to the weaker section of society and is the sole bread-winner of his family.

15. Keeping in view the peculiar facts of the case, we are of the view that ends of justice would be met if the order of punishment is modified from 100% forfeiture to 50% forfeiture of gratuity. We accordingly modify the order of the Tribunal but only to the above extent.

16. With the aforesaid observations, the petition stands disposed of.

G.S.SISTANI, J

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 15, 2019

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