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

+ W.P.(C) 7942/2019

DELHI TRANSPORT CORPORATION AND ANR.

..... Petitioner

Through: Ms. Aditi Gupta, Adv.

versus

SH. VINOD KUMAR

..... Respondent

Through: Mr. J.S. Bhasin with Mr. Nishant
Shokeen, Advs.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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24.07.2019

CAV 734/2019

Learned counsel for the respondent caveator has appeared. The caveat stands discharged accordingly.

C.M. No. 32973/2019 & C.M. No. 32974/2019

Exemptions allowed, subject to all just exceptions. The applications stand disposed of.

W.P.(C) 7942/2019 & CM APPL. 32972/2019

The petitioner DTC assails the order dated 21.01.2019, passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal)

in O.A. No.3937/2017. The Tribunal has allowed the said Original Application and quashed the orders issued by the petitioner dated 17.07.2017, 19.07.2017 and 18.10.2017. The Tribunal has held that the respondent/ applicant would be entitled for annual increments as well as ACP/ MACP benefits and continuity of service since the initial order of termination was set aside with full back wages.

The submission learned counsel for the petitioner is that in the award passed by the learned Presiding Officer, Labour Court No. VII, Delhi, there is no specific relief granted with regard to continuity of service and consequential benefits. She submits that consequently the respondent would not be entitled to continuity of service or other consequential benefits. Thus, the period for which the respondent remained out of service, the said period could not be counted towards qualifying service rendered to enable him to avail of the benefit of the ACP and the MACP scheme. In respect of her submission she seeks to place reliance on the decision of the Supreme Court in ***Andhra Pradesh State Road Transport Corporation & Ors. v. Abdul Kareem***, Civil Appeal No. 7797/2003, decided on 02.08.2005.

We have learned counsel for the petitioner as well as learned counsel for the respondent caveator and perused the impugned order. We have also perused the decision relied upon by the petitioner in the case of ***Andhra Pradesh State Road Transport Corporation*** (supra).

We find no merit in the present petition. As noticed hereinabove, in the present case, the Labour Court directed reinstatement of the respondent with full back wages. The Labour Court held the termination of the service of the respondent to be illegal. Since the same was held to be illegal, the effect of that declaration was that the termination never took place in law.

The grant of full back wages itself demonstrates that the respondent was deemed to be in continuous service, since, without it, he would not be entitled to full back wages. The decision relied upon by learned counsel for the petitioner is not apposite in the facts of the present case, since in that case the reinstatement was without back wages.

For the aforesaid reasons, we are not inclined to interfere with the impugned order. Dismissed.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

JULY 24, 2019

N.Khanna