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

Date of decision : 11.12.2019

+ W.P.(C) 12878/2019 & CM APPL. No. 52624/2019 (for stay)

DELHI TRANSPORT CORPORATION
& ORS.

..... Petitioners

Through : Mr. Vikrant N. Goyal and
Mr. Suraj Kumar, Advocates.

versus

SATPAL SINGH

..... Respondent

Through : None.

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 has been filed by the petitioners being aggrieved by the decision dated 16.04.2019 rendered by the Central Administrative Tribunal ('Tribunal') in O.A. No. 3141/2014.

2. The respondent herein was appointed as a RC driver with petitioner No. 1/Delhi Transport Corporation as far back as in the year 1988. On 18.05.2013, while the respondent was driving the bus from the Railway Station to Sultanpuri near Peera Garhi, one of the passengers jumped-off the bus and fell on the road. The passenger thereby sustained injuries on his head and subsequently died in hospital.

3. A case was registered against the respondent under sections 279/337/304-A IPC, 1860 on 30.05.2013. Consequent upon the registration of the case, the respondent was placed under suspension w.e.f. 20.05.2013 and a charge-sheet was issued against him on 30.05.2013.

4. Upon receiving a reply from the respondent in response to the charge-sheet and finding the same to be unsatisfactory, the case was sent to E/O/(North) for conducting a detailed inquiry into the matter.

5. On 19.12.2013 a show cause notice was issued to the respondent calling upon him to show cause as to why he should not be removed from the services of the petitioner corporation. The respondent submitted his reply to the show-cause notice on 23.12.2013. Finding the reply to be unsatisfactory, the punishment of removal from service was imposed which led to filing of the O.A. before the Tribunal. Vide order dated 16.04.2019 the Tribunal allowed O.A. No. 3141/2014 filed by the applicant/respondent herein, which has led to filing of the present petition.

6. Learned counsel for the petitioners submits that the Tribunal has exceeded its jurisdiction and has failed to take into consideration the specific findings of the Inquiry Officer and the order passed by the Disciplinary Authority. He further submits that it stands established that the respondent was negligent in performing his duties as he did not stop the passenger from getting-off the running bus despite being fully aware that the passenger had the intention of doing so. Counsel submits that the driver did not take any precautions to avoid the

accident and continued to drive the vehicle; and that the decision of the Tribunal is therefore against the evidence on record.

7. We have heard learned counsel for the petitioners and examined the impugned order passed by the Tribunal. We however find no infirmity in the order passed by the Tribunal for the reason that the Tribunal has carefully examined the charge-sheet issued to the respondent as also the reply to the charge-sheet, which reply we reproduce below :

“It is submitted that the charges levelled against me in the charge sheet are totally baseless, because the passenger has jumped from the running bus. This is the negligence of the passenger himself because when he came forward I close the gate with safety rod I told him that bus stop is at about 2 yards away, I will de board you. Sir as soon as he crosses the safety rod I brought down the gear of the bus so that i could stop the bus but he had jumped from the bus during this period. There is no negligence on my part there are old buses in our depot Rohini-II, in which the door are remained opened because the buses are of old type and of standard floor.

Hence the passenger board and de board in the buses as per their own wish. Sir, the passenger was either under intoxication or psyche because he has done such work in which he lost his life. Sir hence i did not do it intentionally, it all happened in fraction of time. I have not to say anything besides this and I pray to you that I may be granted my duty so that I can grant the

livelihood to my family as my family is depend upon present job. I shall be highly thankful to you.”

8. It is required to be noticed that three witnesses were examined by the Corporation. The eye witness to the accident was Mr. Jagdish Chandra, Conductor of the bus, who deposed that when he was coming to Sultan Puri via Old Delhi Railway Station, the bus was about 50 meters away from the Peera Garhi bus stand and one of the passengers suddenly jumped-off the front gate, facing in the reverse direction, due to which he suffered an injury. While giving evidence, it was highlighted that since the bus was of old model, the doors of the bus remained open since there were no pressure gates in such buses. The relevant part of the deposition of Mr. Jagdish Chandra, Conductor of the bus reads as under :

“During the inquiry, Sh. Jagdish Chandra, Conductor, B. No.26335 as stated in his statement that on 18.05.2013, he was doing his duty with driver B.No.17988 on Bus No.6338. During the duty when he was coming to Sultan Puri via Old Delhi Railway Station, when the bus reached about 50 mtrs. Before the peera garhi bus stand, then there were a lot of passengers in the bus, one of the passenger suddenly jumped from the front gate facing in the reverse direction, due to which he suffered minor injury. Thereafter, we had taken him for treatment to Sanjay Gandhi Hospital, the passenger was all right for one and half hour but when he deposited his cash after reaching the depot, he received a call on his mobile

from IO Sh. Tej Singh, PS-Paschin Vihar that the injured passenger has died and come to the police station along with the bus. On which he and duty officer and driver had taken the bus to the police station, then the bus of the corporation was asked to be parked in the police station. Then the Depot Manager also reach there. Thereafter further formalities were done by the depot manager. He also stated that the bus was old, in which there is no fault of the driver of the corporation because both the gate of the old bus remain open meaning there is no pressure gate in these buses...”

9. We have carefully examined the evidence of the Bus Conductor, which clearly establishes that the bus was of old model and did not have automatic-pressure doors, and accordingly, the doors of the bus remained open.

10. The basic argument of learned counsel for the petitioners is that the driver acted in a negligent manner and did not take necessary precautions to avoid the accident, knowing that the passenger was about to get-off the bus before it reached the bus-stop.

11. We are unable to appreciate this submission of learned counsel for the petitioners for the reason that it is humanly impossible for the driver to have predicted that the passenger would jump-off the bus 50 meters before the bus stop; and while driving the bus, he could not have physically stopped the passenger from jumping-off. Accordingly, we do not see how the respondent can be held to have been negligent, leading to his removal from service.

12. We therefore find no infirmity in the order passed by the Tribunal. Accordingly, the writ petition is dismissed.

13. At this stage, learned counsel for the petitioner/Corporation submits that time be extended to comply with the impugned order passed by the Tribunal.

14. We may note that the order was passed by the Tribunal on 16.04.2019. Let the order be complied with within a period of six weeks from today.

15. The writ petition and the application are disposed of in the above terms.

G.S.SISTANI, J

ANUP JAIRAM BHAMBHANI, J

DECEMBER 11, 2019

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