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

+ **Date of Decision: 28.03.2019**

% **W.P.(C) 3451/2017**

M/S DELHI TRANSPORT CORPORATION Petitioner

Through: **Mr. Purvesh Buttan with Mr. Fahad
Imtiaz, Advs.**

versus

JASBIR SINGH

..... Respondent

Through: **Mr. Parmod Kumar with Mr. Amod
Kumar, Advs.**

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

VIPIN SANGHI, J. (ORAL)

1. The petitioner Delhi Transport Corporation (DTC) assails the order dated 24.10.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 100/3760/2013. The Tribunal has allowed the said Original Application preferred by the respondent and set aside the show cause notice dated 21.12.2012, termination order dated 04.01.2013, and the appellate orders dated 18.03.2013 and 31.07.2013 issued by the petitioner. The Tribunal has directed reinstatement of the

respondent with 50 % back wages.

2. The respondent was appointed as a driver on 07.01.2009 with the DTC. While he was on probation, he was involved in an accident which led to the registration of FIR No. 304/2010 under Section 279/338 IPC. The petitioner issued a show cause notice to the respondent on 21.12.2012, calling upon him to show cause as to why his services be not terminated. The show cause notice took note of the fact that the respondent was involved in an accident and a case was pending. It also noticed the Resolution passed by the Board of DTC in its meeting held on 11.02.2011 – being Resolution No. 22/11, which laid down the guidelines regarding probation on appointment and its completion. The said guidelines, inter alia, provided that the probation, in no case, should extend to more than 4 years. This show cause notice by itself, did not apportion any blame on the respondent in so far as the accident was concerned. We may also observe that an internal committee of the petitioner also found the conduct of the respondent not to be blameworthy in relation to the said accident.

3. The respondent sent his response to the show cause notice which led to the passing of the termination order dated 04.01.2013. The termination order referred to the show cause notice; reply of the respondent to the show cause notice, and; observed that the reply has been found to be not satisfactory. It went on to state that “**Hence the proposed punishment is hereby confirmed** i.e. termination from the services of the Corporation with immediate effect under Clause 9 (a) (I) of the DRTA (Conditions of

Appointment & Services) Regulation, 1952” (emphasis supplied)

4. Thus, though the show cause notice itself did not indicate any stigma, the order of termination clearly was stigmatic. The Tribunal has found the said order to be stigmatic, and we agree with the said finding.

5. In the aforesaid light, the submission of learned counsel for the petitioner is that the direction issued by the Tribunal for payment of 50% back wages to the respondent was not justified, considering the fact that he had himself pleaded guilty in the said case in Case FIR No. 304/2010 and he was convicted of the offence under Section 279IPC. The offence under Section 33IPC had already been compounded and the respondent accused had paid the compensation of Rs.50,000/- to the injured. Consequently, he was acquitted of the said offence. The respondent was given the benefit of the Probation of Offenders Act. The effect of the said benefit was, that he could not be visited with any adverse consequence on account of his conviction. That being the position, the fact that the respondent had confessed his guilt regarding the offence under Section 279 IPC would have no bearing, in so far as the direction to reinstate him in service is concerned.

6. The submission of learned counsel for the respondent is that the Tribunal has granted 50 % back wages to the respondent by placing reliance on the decision in ***Ratnesh Kumar Choudhary Vs. Indira Gandhi Institute of Medical Sciences, Patna, Bihar and Others***, JT 2015 (9) 363.

7. Having heard learned counsels, we are of the view that the direction

issued by the Tribunal for payment of Rs. 50% back wages was not justified in the facts and circumstances of the case. The respondent was also responsible for the state in which he found himself. While on probation, he was involved in an accident and he went ahead and confessed before the Court with regard to his guilt under Section 279 IPC. He also compounded the offence under Section 338 IPC by depositing a fine of Rs. 50,000/-. The aforesaid being the position, and considering the fact that the respondent had not actually served – post his termination, in our view, there is no justification in directing payment of 50% back wages.

8. To that extent, the impugned order is set aside. We direct the petitioner to reinstate the respondent positively within two weeks. In case, this direction is not complied with, the respondent shall be entitled to wages from the last date fixed for his reinstatement.

9. The petition stands disposed of in the aforesaid terms.

10. Dasti.

VIPIN SANGHI, J.

REKHA PALLI, J.

MARCH 28, 2019
N.Khanna