

(2021) 03 CAT CK 0099
In the Central Administrative Tribunal
Case No : Original Application No. 629 Of 2021

Anil Kumar, Driver, B. No. 21386, SNPD, Group 'C'	APPELLANT
Vs	
Delhi Transport Corporation	RESPONDENT

Date of Decision : 19-03-2021

Acts Referred:

Citation : (2021) 03 CAT CK 0099

Hon'ble Judges : L. Narasimha Reddy, J;A. K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : Anil Mittal, Sandeep Dey

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant was appointed as a Driver in the Delhi Transport Corporation (DTC) in the year 2009 on the strength of a Heavy Vehicle Driving License said to have been issued by the Regional Transport Officer (RTO), Mathura. The applicant was inducted into service and thereafter the respondents have undertaken a verification of genuinity of the Driving License (DL). In large number of cases, it so emerged that the RTO Mathura has stated that the licences were not issued by them.

2. The applicant was issued a show cause notice, requiring him to explain as to why he shall not be removed from service. At that stage, he filed OA No. 2085/2016. That was allowed along with other similar OAs on 18.01.2017 and the show cause notice was set aside. The respondents were directed to reinstate the applicant or in the alternative, to pay 50 % of the back wages. Challenging the order in OA No. 2085/2016 and batch, the respondents filed WP (C) No. 3633/2016 before the Hon'ble High Court of Delhi. Through a common order dated 13.08.2019, the Hon'ble High Court disposed of the Writ Petitions, leaving it open to the DTC to issue show cause notice to the concerned employees. The wages, as directed by the Tribunal, were required to be deposited with the Hon'ble

ble High Court.

3. The applicant was issued a show cause notice dated 31.10.2019. It was mentioned inter alia that the team of officers was deputed to Mathura to verify the genuineness of the licences and in the inquiry it emerged that the license No. 17412/MTR03 relied upon by the applicant was not issued to him, and on the other hand, it was a light motor vehicle licence, issued to one Mr. Safik Mohammad of Krishna Nagar, Mathura and that the applicant has relied upon the fake license. The applicant submitted a reply on 21.11.2019, he stated that at a later stage, he went to the office of the Transport Authority at Mathura and they have since corrected their record. The said representation was taken into account by the respondent and through order dated 17.01.2020, the concerned authority dismissed the applicant confirming the order of termination passed earlier. It was also held that a sum of Rs. 5,87,451/-directed to be paid as 50% wages to the applicant, which was deposited in the Hon'ble High court cannot be paid to the applicant since the punishment is upheld. They have also reserved the right to file a criminal case against the applicant. The appeal filed against that order was rejected. This OA is filed challenging the order of termination as well as the order of appellate authority.

4. Learned counsel for the applicant submits that the disciplinary authority did not take into account, the explanation submitted to the show cause notice and that there was no basis for terminating the service of the applicant.

5. Learned counsel for the respondents, on the other hand, submits that the proceedings were pending for quite a long time and the impugned orders were passed strictly in accordance with the direction issued by the Hon'ble High Court of Delhi in W.P. (C) No. 3633/2016.

6. We heard Mr. Anil Mittal, learned counsel for the applicant and Mr. Sandeep dey for Mr. Ayusha Kumar, learned counsel for the respondent.

7. This is the second round of litigation by the applicant vis a vis the disciplinary proceedings initiated against him. The genuinity or otherwise of the driving licence was required to be verified at the stage of issuing order of appointment itself. However, it appears that on account of acute shortage of drivers, the orders of appointment were issued and the process of verification of licence was relegated to a later stage. Since the drivers appointed in the DTC would operate the heavy vehicles in busy localities, it would have been better, to verify the genuinity of licence before they are put on duties.

8. Be that as it may, in the case of the applicant, and quite large number of other drivers, it emerged that the driving licences produced by them were found to be not genuine. Since it is not a matter of any disciplinary action and was just a matter of verification of genuineness of record, a show cause notice was issued. This Tribunal has set aside the very show cause notice and held that the regular disciplinary proceedings must be held. The Hon'ble High Court examined this issue in detail in batch of Writ Petitions. The following observations were made

and the directions were issued:

"22. Thus, we are not inclined to direct that the inquiries to be held against the respondents, and other similarly situated, should be strictly in terms of the procedure prescribed in Rule 15(C) looking to the peculiar features of these cases. Since the respondents claim that they had produced genuine driving licenses, really speaking, it is for them to establish the said position.

23. Resultantly, following the decision of the Supreme Court in *Surender Singh* (supra), we dispose of these petitions by permitting the petitioner to issue detailed show cause notices to each of the respondents and other similarly situated. The show cause notices shall be accompanied with the relevant documents in respect of each of the respondents on which the DTC seeks to rely, and should set out the specific charge(s) framed against each of them respectively. Two weeks time shall be granted to the noticees to respond to the show cause notices from the date of receipt of the respective notice. Depending upon whether, or not, the responses are received, and if so received, the petitioner shall proceed in accordance with principles of natural justice.

24. The noticees shall co-operate in the inquiries and the inquiries shall not be adjourned unnecessarily. From the date(s) on which the show cause notices are issued, the noticees shall be deemed to have been reinstated for the purpose of the enquiry, and they would be entitled to receive Subsistence Allowance on their deemed reinstatement for the purpose of enquiry, till the completion of the inquiry. However, in case, it is found that any of the noticees are not co-operating in the inquiry proceedings, or delaying the same unnecessarily - for reasons to be recorded, it shall be open to the petitioner to stop payment of Subsistence Allowance. In case, the respondents/ noticees are aggrieved by any order that may be passed by the Disciplinary Authority on the basis of the enquiry so conducted, it shall be open to them to avail of their rights and remedies.

25. It shall be open to the Competent Authority to decide on the aspect of back wages, etc. depending on the outcome of the disciplinary proceedings.

26. The amount deposited by the petitioner in this Court shall continue to remain in fixed deposit, and the disbursal of the same shall abide by the orders that may be passed depending on the outcome of the Disciplinary Proceedings.

27. The petitions stand disposed of in the aforesaid terms.

28. It shall be open to the petitioner to produce this order before the Learned CAT for adoption of the same directions in the Original Applications pending before it."

9. In compliance with the directions, a detailed show cause notice was issued to the applicant. The gist of the allegations against the applicant is contained in para -17 of the show cause notice, which reads as under:

"17. WHEREAS, in response to the aforementioned letter of the personnel Dept., the team of officers visited the office of licensing authority Mathura and on verification of license of Shri Anil Kumar, report dated 18.7.2018 which has been given to them by ARTO Mathura counter signed by Senior Assistant, wherein it is mentioned that the license No. 17412/MTR/03 was not issued in the name Shri Anil Kumar and it was issued to Shri Safiq Mohd. S/o Safi Mohd., Add. Nangla Shivji, Krishana Nagar, Mathura for M. Cyl & LMV issuing date was 16.12.2003 and validity upto 15.12.2023. Copy of the report of three officers with the letter No. 2245/License verification/2018 of 18.7.2018 is annexed as Annexure-XIV to XV."

10. In his reply the applicant did not address this issue at all. On the other hand, he came forward with a version that he contacted the Transport Authority at Mathura about the validity of Driving license and they have corrected their mistake in the information submitted to the DTC. The relevant paragraph reads as under:-

" Thereafter I contacted Mathura Transport Authority about validity of my driving license and I was informed that license No. 17412/MtR03 was issued in my name as per records and the said license was wrongly shown in favour of Safik Mohammad on account of wrong feeding in the computer. The record has since been corrected and in the official website of Ministry of Road, Transport and Highways it has been clarified that the above said license wrongly shown in favour of Safik Mohammad has been cancelled. Printout from the official website of Ministry of Road, Transport and Highways namely ?Parivahan Sewa, is Annexure-A.3 hereto. This shows that letter dated 18-7-2018 issued to DTC was issued on the basis of wrong information."

11. The whole episode reflects the existence of major loopholes in the very selection process, for appointment of drivers to operate heavy vehicles in busy localities of the National Capital day in and day out. In the show cause notice, the factum of verification of the licence and the information received in that behalf was clearly furnished. In case, there is any variation in the information in that behalf, the only persons whom it could have been furnished, were the respondents. However, the applicant has his own direct channel to the Transport Authorities. No official proceedings with authenticity were filed nor any person connected therewith was made to speak. One just cannot accept such certificates or communications. Not only the applicant secured appointment on the strength of the fake licence but also has subjected the DTC to various litigations.

12. We do not find any merit in the OA and the same is accordingly, dismissed. There shall be no order as to costs.