

(2013) 10 DEL CK 0147

In the Delhi High Court

Case No : Writ Petition (C) No. 6586 of 2012 and CM No. 17405 of 2012

Chandra Roop

APPELLANT

Vs

Airport Authority of India and Others

RESPONDENT

Date of Decision : 03-10-2013

Acts Referred:

Citation : (2013) LLR 1182

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : Anjali Nehra, for the Appellant;

Final Decision : Allowed

Judgement

Valmiki J Mehta, J.—This writ petition impugns the action of respondent no. 1-Airport Authority of India in appointing a new enquiry officer as per the impugned order dated 28.8.2012. Petitioner contends that once detailed enquiry proceedings are conducted and the enquiry officer gives his report, and which was done in this case as an enquiry officer gave a report dated 6.1.2012, exonerating the petitioner from giving false date of birth, then no new enquiry officer can be appointed without putting the petitioner to notice. The case of the petitioner as stated in the writ petition is that petitioner was appointed as a Junior Attendant (Elect.) vide letter dated 14.6.2008 and he joined services w.e.f. 23.6.2008. Petitioner completed the probation period without any complaint and probation period was not extended. Petitioner was issued a show-cause notice dated 10/11.8.2008 alleging discrepancy as to the date of birth and the petitioner giving wrong date of birth certificate. Detailed enquiry proceedings were held, and enquiry officer thereafter gave the report dated 6.1.2012 exonerating the petitioner. Petitioner never came to know about all this and ultimately petitioner received notice of appearing before another enquiry officer and whereupon petitioner filed this writ petition stating that he never received copy of the report of the enquiry officer and the disciplinary authority did not hear the petitioner before passing the order disagreeing with the report of the

enquiry officer and directing conduct of de novo enquiry proceedings.

2. A reading of the counter-affidavit shows that the facts are admitted with respect to the first enquiry officer submitting report on 6.1.2012 holding that the charges were not proved. Counter-affidavit is however silent as to how the disciplinary authority disagreed with the report of the enquiry officer and directed de novo enquiry without following the principles of natural justice and without hearing the petitioner. Following of principles of natural justice is a sine qua non before a disciplinary authority disagrees with the findings of enquiry officer and remits the matter for a fresh enquiry. Since in the present case, petitioner was not even supplied with the copy of the report of the enquiry officer and nor was heard or any show-cause notice was issued to him by the disciplinary authority proposing to disagree with the enquiry officer's report, the impugned order dated 28.8.2012 is therefore illegal and is bound to be set aside.

3. In view of the above, the writ petition is allowed and the impugned order dated 28.8.2012 appointing respondent no. 4 as a new enquiry officer is set aside. It is directed that the disciplinary authority will now issue a show-cause notice to the petitioner as per the first enquiry report dated 6.1.2012 and in the show-cause notice reasons will be given as to why the disciplinary authority proposes to disagree with the findings of the enquiry officer in the report dated 6.1.2012. The enquiry officer will then give a personal hearing to the petitioner or his representative and thereafter pass a detailed speaking order in accordance with law. The writ petition is allowed and disposed of in terms of the above observations, leaving the parties to bear their own costs.