

(2023) 07 DEL CK 0065

In the Delhi High Court

Case No : Civil Writ Petition No. 8880 Of 2023, Civil Miscellaneous Application
No. 33544, 33545 Of 2023

Delhi Transport Corporation

APPELLANT

Vs

Subhash Chand

RESPONDENT

Date of Decision : 05-07-2023

Acts Referred:

Citation : (2023) 07 DEL CK 0065

Hon'ble Judges : V. Kameswar Rao, J;Anoop Kumar Mendiratta, J

Bench : Division Bench

Advocate : Manisha Singh, Ashu Pathak, George Potham Poothicoti, Jyoti Singh

Final Decision : Dismissed

Judgement

V. Kameswar Rao, J

CM APPL. 33545/2023

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 8880/2023

1. The challenge in this petition is to an order dated March 15, 2023 passed in the Original Application being OA No. 1501/2016 ('OA', for short), whereby the Tribunal has partially allowed the OA filed by the respondent herein by stating in paragraph 11 as under:

"In view of the aforesaid, the present O.A is partly allowed. The impugned orders dated 26.12.2014, 12.03.2015 and 03.07.2015 are set-aside. The applicant shall be entitled for all consequential benefits in accordance with relevant rules and instructions on the subject. However, the respondents shall be at liberty to proceed in the manner from the stage of submission of report by the Inquiry Officer in accordance with the relevant rules and instructions."

2. The facts as noted from the record are, the challenge of the respondent before the Tribunal was to an order dated December 16, 2014 of the Disciplinary Authority, who had imposed the punishment of stoppage of one increment with cumulative effect. In appeal, the Appellate Authority vide order dated March 12, 2015 revised the punishment order by stating that the same shall be stoppage of one increment without cumulative effect. It appears a further remedy was availed by the respondent before the higher authority, who passed an order dated July 3, 2015 rejecting the said remedy.

3. It is noted that, departmental inquiry was initiated against the respondent by issuing a chargesheet dated July 26, 2012. It is a conceded position that the Inquiry Officer in his final conclusion has held that the charges framed against the respondent have not been proved. The Disciplinary Authority issued a notice dated August 14, 2014 to the respondent to explain as to why the penalty of stoppage of two increments with cumulative effect be not imposed upon him. Subsequently, the inquiry report was supplied to the respondent vide communication dated February 26, 2014. The same was replied to by the respondent on August 14, 2014.

4. It is noted that despite the Inquiry Officer holding that the charges have not been proved, the Disciplinary Authority imposed the punishment which we have reflected above. Even, in appeal, the punishment was ratified to the extent stated above.

5. What was urged before the Tribunal was that, when the Inquiry Officer has not proved the charges, the Disciplinary Authority could not have imposed the punishment. Agreeing with the plea advanced on behalf of the respondent, the Tribunal has set aside the orders passed by the Disciplinary Authority, Appellate Authority and also the Higher Authority and remanded the matter as per paragraph 11 of the impugned Judgment to the petitioners for fresh consideration.

6. The only submission made by the learned counsel for the petitioner is that the Tribunal could not have granted consequential benefits, which it did in the impugned order.

7. We are not in agreement with the only submission made by the learned counsel for the petitioner for the simple reason that the Tribunal having set aside the order of the Disciplinary Authority / Appellate Authority and the Higher Authority, the necessary consequence shall be that the respondent has to be put in the same place/stage as if no punishment has been imposed on the respondent. On a specific query to the learned counsel for the petitioner whether any disagreement note was issued by the Disciplinary Authority to the respondent before imposing the punishment, the answer is in the negative. If that be so, we agree with the conclusion arrived at by the Tribunal in the impugned order. We do not see any reason to interfere with the same.

8. The petition is dismissed.

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Dismissed as infructuous.