

(2011) 03 DEL CK 0161

In the Delhi High Court

Case No : Writ Petition (Civil) No. 1392 of 2011

Hawa Singh

APPELLANT

Vs

Delhi Transport Corporation and Others

RESPONDENT

Date of Decision : 03-03-2011

Acts Referred:

Citation : (2011) 03 DEL CK 0161

Hon'ble Judges : Dipak Misra, C.J; Sanjiv Khanna, J

Bench : Division Bench

Advocate : Sanjoy Ghose and Anuj Agrawal, for the Appellant; Latika Chaudhary, for the Respondent

Final Decision : Dismissed

Judgement

Sanjiv Khanna, J.—The Petitioner Hawa Singh was awarded minor penalty of stoppage of next due increment. By the impugned order dated 30th November, 2010, Central Administrative Tribunal (Tribunal, for short), Principal Bench, New Delhi has upheld the penalty and dismissed the original petition filed by the Petitioner.

2. Learned Counsel for the Petitioner has submitted that the Tribunal and the Disciplinary Authority have failed to notice and give due consideration to the fact that the Petitioner, who is a Driver, was not on duty and was telephonically asked to perform duty as a Driver at 16.30 hrs, and on the basis of vigilance report, action was sought to be taken after seven months.

3. The Vigilance Team had checked the Booth Nos. A & B, Najafgarh on 4th July, 2006. At about 18.30 hrs, Bus No. 2638 was found to be parked at Booth "B" though the actual scheduled time for departure from the said Booth was 18.00 hrs. Thus there was a delay of 30 minutes and failure on the part of the bus crew. The allegation is that on seeing the vigilance team, the crew took the bus on its trip without checking. The statement of Dharam Singh, ATI/Time Keeper was recorded before the enquiry officer. The Tribunal has specifically recorded

that the checking team had reported to him at 18.15 hrs and the bus No. 2683 had reported at the right time but went for the next trip at 18.30 hrs. The schedule time for departure was 1800 hrs. Thus the factum that the Petitioner had reported for duty at 1630 hrs, even if correct, was not relevant.

4. In reply to the charge-sheet dated 5th February, 2007, the Petitioner admitted that he was asked to perform duty on bus No. 2638 on 4th July, 2006 and he had come to the depot. Thereafter trips were completed by him as mentioned on his memo. He had submitted that there was shading out on the duty date from the depot due to traffic jam at Najafgarh. In the departmental proceedings, on the basis of the statement of Dharam Singh and the defence raised by the Petitioner, aforesaid penalty of stoppage of next due increment was imposed by the disciplinary authority.

5. We agree with the findings recorded by the Tribunal that the factual findings recorded in the disciplinary proceedings do not merit review/reconsideration in exercise of power of judicial review. The conclusions arrived cannot be classified as arbitrary, perverse and based on no evidence whatsoever. We cannot as an appellate court re-examine and re-appreciate the evidence and findings of facts.

6. We entirely agree with the findings recorded by the Tribunal and do not find any ground to interference with the same. The writ petition is accordingly dismissed in limine.