

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.3828/2016

M.A.No.932/2017

with

O.A.No.3805/2016

M.A.No.933/2017

O.A.No.3732/2016

M.A.No.934/2017

O.A.No.3829/2016

M.A.No.935/2017

O.A.No.3826/2016

M.A.No.936/2017

O.A.No.3824/2016

M.A.No.937/2017

O.A.No.485/2017

M.A.No.938/2017

O.A.No.3799/2016

M.A.No.939/2017

O.A.No.594/2017

M.A.No.940/2017

M.A.No.610/2017

O.A.No.63/2017

O.A.No.563/2017

O.A.No.565/2017

O.A.No.567/2017

O.A.No.661/2017

O.A.No.667/2017

O.A.No.879/2017

O.A.No.880/2017

Order Reserved on: 17.03.2017
Order pronounced on 16.05.2017

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri P. K. Basu, Member (A)

O.A.No.3828/2016

M.A.No.932/2017

Sh. Suresh Kumar, 43 years (Driver) Group-C
S/o Sh. Zile Singh
Driver Badge No.24563, T.No.66553
R/o Vill.-Khor, Tehsil Pataudi
Distt. Gurgaon, Haryana. ... Applicant

Versus

1. Chairman-Cum-Managing Director
DTC Headquarter
I.P.Estate, New Delhi-110002.
2. Regional Manager-cum-Appellate Authority
Through CMD-DTC
DTC Head Quarter, I.P.Estate, New Delhi.
3. The Depot Manager
Delhi Transport Corporation
Hari Nagar Depot-II, Delhi. ... Respondents

O.A.No.3805/2016

M.A.No.933/2017

Sh. Rajesh Kumar (Ex.-Driver DTC): 36 years
S/o Sh. Umed Singh
Driver B.No.21936, T No.63897
R/o Vill. Safiabab, P.O.Nathu Pur
Distt. Sonipat, Haryana – 131029. ... Applicant

Versus

1. Chairman-Cum-Managing Director
DTC Headquarter
I.P.Estate, New Delhi-110002.
2. Regional Manager-cum-Appellate Authority
Through CMD-DTC
DTC Head Quarter, I.P.Estate, New Delhi.
3. The Depot Manager
Delhi Transport Corporation
Shadipur Depot, New Delhi. ... Respondents

O.A.No.3732/2016**M.A.No.934/2017**

Sh. Rajesh Chauhan (Ex.-Driver DTC): 57 years
S/o Sh. Chander Dev
Driver B.No.21388, T.No.63348
R/o K-1833, Jahangir Puri
Delhi – 110 033. ... Applicant

Versus

1. Chairman-Cum-Managing Director
DTC Headquarter
I.P.Estate, New Delhi-110002.
2. Regional Manager-cum-Appellate Authority
Through CMD-DTC
DTC Head Quarter, I.P.Estate, New Delhi.
3. The Depot Manager
Delhi Transport Corporation
GTK Road Depot, Delhi-110033. ... Respondents

O.A.No.3829/2016**M.A.No.935/2017**

Sh. Rajesh Kumar: 43 years (Driver) Group C
S/o Sh. Ram Babu Dixit
Driver Badge No.24952, T.No.66942
R/o A1-425, A-Block, Madhu Vihar
Delhi – 110 059. ... Applicant

Versus

1. Chairman-Cum-Managing Director
DTC Headquarter
I.P.Estate, New Delhi-110002.
2. Regional Manager-cum-Appellate Authority
Through CMD-DTC
DTC Head Quarter, I.P.Estate, New Delhi.
3. The Depot Manager
Delhi Transport Corporation
Hari Nagar Depot-II, Delhi. ... Respondents

O.A.No.3826/2016

M.A.No.936/2017

Sh. Neeraj Kumar (Age 39 years-Driver) Group – C
S/o Sh. Bir Singh
Driver Badge No.21962, T No.63923
R/o 285/90, Bank Wali Gali
Azadpur, Delhi – 110 033. ... Applicant

Versus

1. Chairman-Cum-Managing Director
DTC Headquarter
I.P.Estate, New Delhi-110002.
2. Regional Manager-cum-Appellate Authority
Through CMD-DTC
DTC Head Quarter, I.P.Estate, New Delhi.
3. The Depot Manager
Delhi Transport Corporation
Hari Nagar Depot-II, Delhi. ... Respondents

O.A.No.3824/2016

M.A.No.937/2017

Sh. Ravinder : 35 years (Driver) Group-C
S/o Sh. Raj Kumar
Driver Badge No.21425, T No.63385
R/o V.P.O. Bhalaut, P.S.Pana Majra
Distt. Rohtak, Haryana-124001. ... Applicant

Versus

1. Chairman-Cum-Managing Director
DTC Headquarter
I.P.Estate, New Delhi-110002.
2. Regional Manager-cum-Appellate Authority
Through CMD-DTC
DTC Head Quarter, I.P.Estate, New Delhi.
3. The Depot Manager
Delhi Transport Corporation
Hari Nagar Depot-II, Delhi. ... Respondents

O.A.No.485/2017

M.A.No.938/2017

Sh. Shambhu Dayal (Ex-Driver DTC) (Age-37 years)
S/o Sh. Jag Mohan
Driver, Badge No.21329, P.T. No.63289
R/o VPO-Tanda Heri
Teh – Bahadur Garh, Distt. Jhajjar
Haryana – 124507. ... Applicant

Versus

1. Chairman-Cum-Managing Director
DTC Headquarter
I.P.Estate, New Delhi-110002.
2. Regional Manager-cum-Appellate Authority
Through CMD-DTC
DTC Head Quarter, I.P.Estate, New Delhi.
3. The Depot Manager
Delhi Transport Corporation
Shadipur Depot, New Delhi. ... Respondents

O.A.No.3799/2016**M.A.No.939/2017**

Sh. Mukesh Kumar (Ex.-Driver DTC): 40 years (Group C) Driver

S/o Sh. Suraj Bhan

Driver B.No.22895, T No.64856

R/o VPO-Nahri, Distt. Sonipat, Haryana. ... Applicant

Versus

1. Chairman-Cum-Managing Director
DTC Headquarter
I.P.Estate, New Delhi-110002.
2. Regional Manager-cum-Appellate Authority
Through CMD-DTC
DTC Head Quarter, I.P.Estate, New Delhi.
3. The Depot Manager
Delhi Transport Corporation
Shadipur Depot, New Delhi. ... Respondents

O.A.No.594/2017**M.A.No.940/2017****M.A.No.610/2017**

Sh. Rakesh Kumar (Ex-Driver DTC) (Age 37 years)

S/o SH. Om Prakash

Driver B. No.24205, T.No.66195

R/o H.No.298, Vill. & P.O.Jaunti

Delhi – 110 081. ... Applicant

Versus

1. Chairman-Cum-Managing Director
DTC Headquarter
I.P.Estate, New Delhi-110002.

2. Regional Manager-cum-Appellate Authority
Through CMD-DTC
DTC Head Quarter, I.P.Estate, New Delhi.
3. The Depot Manager
Delhi Transport Corporation
Kanjhawala Depot, New Delhi. ... Respondents

O.A.No.63/2017

Chander Prakash, Driver, B.No.24592, SVD
Aged about 35 years
S/o SH. Dharam Vir
r/o House No.108, Sadar Pur, P.O.Alawal Pur
District Palwal, Haryana. ... Applicant

Versus

Delhi Transport Corporation
I.P.Estate
New Delhi – 110 002. ... Respondent

O.A.No.563/2017

Sh. Deepak Khatri, Age 36 years
Ex. Driver, DTC
S/o Sh. Ran Singh Khatri
R/o H.No.218, VPO-Bankner
Delhi-40. Applicant

Versus

1. Delhi Transport Corporation
Through its Chairman
D.T.C., I.P.Depot
New Delhi.
2. The Depot Manager
Delhi Transport Corporation
Rohini Depot-II
Delhi – 110 085. ... Respondents

O.A.No.565/2017

Jai Bhagwan, Driver, B.No.26976, SPD

Aged about 36 years, Group C

S/o Sh. Ram Kishore

R/o House No.6, Village & P.O.Kair

New Delhi – 110 043.

...

Applicant

Versus

Delhi Transport Corporation

I.P.Estate

New Delhi – 110 002.

(through Chairman-Cum-Managing Director). ... Respondent

O.A.No.567/2017

Sh. Mahinder Singh (Ex-Driver DTC) (Age-36 years)

S/o Sh. Ajit Singh

Driver Badge No.25745, T.No.67748

R/o Vill-Kherka Gujjar, PO-Dulhera

Teh-Bahadurgarh, Distt.-Jhajjar

Haryana – 124507.

...

Applicant

Versus

Versus

1. Chairman-Cum-Managing Director
DTC Headquarter
I.P.Estate, New Delhi-110002.
 2. Regional Manager-cum-Appellate Authority
Through CMD-DTC
DTC Head Quarter, I.P.Estate, New Delhi.
 3. The Depot Manager
Delhi Transport Corporation
Shadipur Depot, New Delhi.
- ... Respondents

O.A.No.661/2017

Sh. Prateesh, Age 30 years, Group C, Post-Driver
Ex. Driver, DTC
S/o SH. Mohinder Singh
R/o V.P.O. Baland
District-Rohtak, DR-124001. ... Applicant

Versus

1. Delhi Transport Corporation
Through its Chairman
D.T.C., I.P.Depot
New Delhi.
2. The Depot Manager
Delhi Transport Corporation
Rajghat Depot-I,
New Delhi. ... Respondents

O.A.No.667/2017

Sh. Anand Kumar, age 36 years, Group C
Ex. Driver, DTC
S/o Sh. Baljeet Singh
R/o Village-Kaith, PO-Shahpur
Thana & Tehsil – Israna
District-Paipat, HR-132107. ... Applicant

Versus

1. Delhi Transport Corporation
Through its Chairman
D.T.C., I.P.Depot
New Delhi.
2. The Depot Manager
Delhi Transport Corporation
Rajghat Depot-I,
New Delhi. ... Respondents

O.A.No.879/2017

Sh. Sanjay Kumar (Age-42 years) (Group C)

S/o Sh. Ram Kishan

Driver B. No.25178, T.No.67176

R/o V.P.O.Bhalout, Distt. Rohtak

Haryana.

... Applicant

Versus

1. Chairman-Cum-Managing Director
DTC Headquarter
I.P.Estate, New Delhi-110002.
2. Regional Manager-cum-Appellate Authority
Through CMD-DTC
DTC Head Quarter, I.P.Estate, New Delhi.
3. The Depot Manager
Delhi Transport Corporation
GTK Road Depot, Delhi-110033. ... Respondents

O.A.No.880/2017

Sh. Jitender Kumar (Age 32 Years) (Group-C)

S/o Sh. Jagdish Bhardwaj

Driver B.No.25840, T.No.67843,

R/o 1403, Panna Paposian

V. & P.O. Narela, Delhi – 110 040.

... Applicant

Versus

1. Chairman-Cum-Managing Director
DTC Headquarter
I.P.Estate, New Delhi-110002.
2. Regional Manager-cum-Appellate Authority
Through CMD-DTC
DTC Head Quarter, I.P.Estate, New Delhi.

3. The Depot Manager
Delhi Transport Corporation
Hari Nagar Depot-II,
New Delhi.

... Respondents

Present: Shri F.K.Jha, Shri Sachin Chauhan and Ms. Komal Aggarwal for Mr. Anil Mittal, learned counsel for the applicants. Ms. Arti Mahajan Shedha with Mr. Manoj Kumar, Ms. Ruchira Gupta with Sh. Mona Singh, the learned counsel for the respondents.

O R D E R (Common)

By V. Ajay Kumar, Member (J):

Heard the learned counsel appearing on behalf of their respective parties in the aforesaid applications, and perused the pleadings on record. Since common question of law and facts are involved, all these OAs are disposed of by way of this common order.

2. The respondent-DTC appointed number of persons as Drivers basing on the recommendations of the Delhi Subordinate Services Selection Board (in short, DSSSB), on various dates. The DSSSB recommended the candidates after subjecting them to a process of selection, including the Skill Test of Driving. All the requisite documents, such as Driving License, as well as educational qualification certificates were submitted and verified by the respondents before issuing the appointment orders. The said persons, on their appointment and after successful completion of their probation period of two years, were confirmed on various dates.

3. During the year 2013, the respondent-DTC, on re-verification of the driving licenses of its Drivers, whose probation has already been declared on successful completion of the specified period, and when the licensing authorities reported that the Driving Licenses of some of them are not genuine/valid, the respondent-DTC terminated the services of the concerned Drivers, after issuing Show Cause Notices and after considering their replies thereto.

4. In those circumstances, some of the regular and permanent Drivers of the respondent-DTC approached this Tribunal by questioning the said orders of termination which were issued without holding any regular departmental enquiry.

5. This Tribunal, in OA No.2351/2015 and batch (**Hari Om Singh v. Delhi Transport Corporation & Others**), after hearing both sides and after examining the applicable rules and judicial precedents, by its common order dated 26.10.2016, allowed the OAs and set aside the termination orders therein, as under:

"50. In the light of the aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side during the course of regular DEs, the OAs are hereby partly accepted. The impugned SCNs, termination orders and orders of AAs are set aside. The applicants are ordered to be reinstated in service forthwith with 50% of back wages, in view of judgment of Hon'ble Apex Court in Ratnesh Kumar Choudhary's case (supra). However, it is made clear that nothing observed hereinabove, would reflect on merits, in regular DEs as the same has been so recorded for a limited purpose of deciding the pointed limited controversy involved in the OAs. The parties are left to bear their own costs.

51. Needless to mention, the DTC would be at liberty to initiate and conduct regular departmental enquiry against the applicants for their alleged indicated misconduct, in accordance with law, before imposing any punishment on them. At the same time, since the validity & genuineness or otherwise of the driving licences of the applicants are very much in dispute, so

the DTC would be at liberty to suspend them in contemplation of the regular Departmental Enquiry, subject to the payment of admissible subsistence allowances. In case it (DTC) chooses not to suspend the applicants, then it (DTC) will not assign them the duties of 31 OA No.No.100/2351/2015 and connected cases Drivers in public interest and safety. They may be deputed on some other job except Drivers, during the pendency of the regular DEs."

6. In Writ Petition (C) No.1554/2017, filed against OA No.1033/2016 - **Sant Ram & Others v. Delhi Transport Corporation** [which was disposed of by the aforesaid common order dated 26.10.2016 along with other OAs in **Hari Om Singh** (supra)] by the respondent-DTC, the Hon'ble High Court of Delhi by its interim order, dated 22.02.2017, while not interfering with the common order of this Tribunal so far as setting aside the termination orders, issued notices and stay to the limited extent of 2nd aspect, i.e., payment of back-wages subject to deposit of 50% of the back-wages, observed as under:

"Mr. Uday N. Tiwary, learned counsel appearing for the DTC does not contest the impugned order dated 26th October, 2016 passed by the Principal Bench of the Central Administrative Tribunal (Tribunal, for short) in O.A. No. 2351 of 2015 with O.A. Nos. 4358 of 2014, 373 and 3501 of 2015, and 184, 185 and 1033 of 2016, to the extent that the Tribunal has set aside the termination order. It is an accepted position that departmental proceedings were never initiated and the procedure, as prescribed under Rule 15 of the Delhi Road Transport Authority (Conditions of Appointment & Service) Regulations, 1952 was not followed. We are unable to comprehend as to why the petitioner corporation did not follow the said procedure before terminating and dismissing the respondents.

The only challenge raised on behalf of the petitioner is to the direction for payment of 50% backwages. Mr. Tiwary relies upon the decision of the Supreme Court in Civil Appeal No.11154/2016 titled **Surender Singh & Ors. v. Delhi Transport Corporation & Ors.**, in which it has been held as under

"9. We further make it clear that this shall not prevent the DTC from terminating the services of the drivers on the ground that they are found to be colour-blind. However, the employees will be entitled for protection of their services under the Act if eligible in law. The appellants shall be treated

to have been reinstated for the purposes of the enquiry and shall be entitled to claim consequential benefits at the time of final decision of the enquiry, which shall be completed within a period of six months from the date of receipt of copy of this order."

Issue notice to the respondents, limited to the second aspect, i.e. payment of backwages. We clarify that the petitioner would deposit 50% of the backwages payable in the Court within a period of six weeks, which would be kept in an FDR, initially for a period of three months. We clarify, that the issue of notice in the writ petition does not bar and prevent the petitioner-Corporation from treating the respondent as reinstated for the purposes of inquiry and conducting the same and passing appropriate orders in accordance with law.

Subject to the deposit being made within a period of six weeks, there would be stay of the contempt proceedings. We clarify that the stay of contempt proceedings would not bar the operation of the last sentence of the above paragraph."

7. Identical interim orders in identical Writ Petitions were also passed by the Hon'ble High Court. In SLP No.11088/2017 filed against an identical interim order dated 10.02.2017 in WP(C) No.1114/2017 in **DTC v. Om Prakash**, the Hon'ble Apex Court while issuing notice stayed the deposit of back wages, vide its Order dated 18.04.2017, and the relevant part of which reads as under:

"Issue notice.

In the meantime, deposit of back wages will remain stayed.

It is made clear that there is no bar to the matter being finally decided by the High Court."

8. When the instant OAs are taken up for hearing, the learned counsel for the applicants submitted that the subject matter of all the aforesaid OAs is squarely covered by the decision of this Tribunal in OA No.2351/2015 (**Hari Om Singh v. Delhi Transport Corporation**), and batch, decided on 26.10.2016, and hence, prays for disposal of the instant OAs, in terms of the said common order, dated 26.10.2016.

9. The learned counsel appearing for the respondents-DTC while not disputing the fact of disposal of the batch of OAs, by this Tribunal by its common order dated 26.10.2016, in OA No.2351/2015, and the

issuance of the notice by the Hon'ble High Court of Delhi in WP (C) No.1554/2017 to a limited extent, as observed above, though submitted that the decision in **Hari Om Singh** (supra) is not applicable to the applicants' case, but failed to show how the same is not applicable.

10. In all the instant OAs, the case of the applicants, in short, is that on their regular selection, they were appointed as Drivers on various dates, and accordingly continued as such for all these years. However, the respondent-DTC, all of a sudden, without issuing any chargesheet and without conducting any regular departmental enquiry just by issuing a Show Cause Notice terminated their services on the ground that their Driving Licenses were bogus/fake.

11. The respondents, vide their counter, while submitting that the Licensing Authority reported that the Driving Licenses of the applicants were not valid and accordingly they are not entitled to continue to be Drivers, and, hence, there is no illegality or irregularity in terminating their services.

12. A careful perusal of the pleadings on record reveals that the facts of the instant OAs are identical to the facts in **Hari Om Singh** (supra), i.e., terminating the services of a regular Driver, without holding a regular departmental enquiry, and both side counsel advanced identical arguments which were already considered and decided by this Tribunal in **Hari Om Singh** (supra), and hence, the instant OAs are also deserve to be disposed of in terms of the Judgement in **Hari Om**

Singh (supra), however, subject to the result of the batch of WPs and the SLPs filed against the common order in **Hari Om Singh** (supra), with regard to entitlement and payment of back-wages.

13. In these circumstances and since identical OAs were already disposed of, the MAs, if any, filed for seeking condonation of delay in filing the OAs are allowed. For the same reasons, i.e., the issue involved in all these OAs is identical and covered by the decision in **Hari Om Singh** (supra), the individual facts of each case are also not detailed.

14. Accordingly, in the aforesaid circumstances the aforesaid OAs are allowed and the respective Show Cause Notices and the termination orders are quashed and set aside. The applicants are ordered to be reinstated in service forthwith. They are also entitled for 50% back wages w.e.f. the date of filing of the respective OAs, however, the same shall be subject to the result of the WPs, such as WP(C) No.1554/2017 and batch, and the SLPs such as SLP No.11088/2017, filed against the common order dated 26.10.2016 in the aforesaid **Hari Om Singh** and batch. However, the DTC would be at liberty to initiate and conduct regular departmental enquiry against the applicants for their alleged indicated misconduct, in accordance with law, before imposing any punishment on them and since the validity and genuineness or otherwise of the Driving Licenses of the applicants is very much in dispute, the DTC would be at liberty to suspend them in contemplation of the regular departmental enquiry, in accordance

with law, subject to the payment of admissible subsistence allowances. In case the DTC chooses not to suspend the applicants, then it will not assign the applicants the duty of Driver in public interest and safety and they may be deputed on some other job except Drivers, during the pendency of the regular departmental enquiry. No costs.

Pending MAs, if any, stand disposed of.

(P. K. Basu)
Member (A)

(V. Ajay Kumar)
Member (J)

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