

**Central Administrative Tribunal
Principal Bench**

OA No. 3028/2014

Order reserved on: 05.05.2016

Order pronounced on: 16.05.2016

Hon'ble Mr. V. N. Gaur, Member (A)

Karam Vir, Driver, SPD, B.No.24397,
Aged about 35 years,
s/o Jagroop
r/o Village Naya Gaon,
Tehsil Bahadurgarh,
District Jhajjar, Haryana.

- Applicant

(By Advocate: Sh. Anil Mittal with Ms. Komal Aggarwal)

Versus

Delhi Transport Corporation,
I.P.Estate, New Delhi-110002
(through Chairman-cum-Managing Director).

- Respondent

(By Advocate: Sh. Sarfaraz Khan)

ORDER

The applicant was recommended by DSSSB for appointment to the post of Driver in Delhi Transport Corporation (DTC) in the year 2008. In the medical examination by DTC Medical Board on 12.02.2009 he was declared medically unfit due to defective eye vision. However, following a decision taken by the DTC Board by Resolution no.90/2009 dated 22.12.2009 cases of all those declared medically unfit by the DTC Medical Board were referred to Guru Nanak Eye Centre for re-examination. After examination on 18.03.2010 the applicant was declared fit by Guru Nanak Eye Centre and he was appointed as Driver on 21.06.2010. He

completed his probation of two years in 2010. When one such candidate who was initially declared unfit by DTC Medical Board and later declared fit by Guru Nanak Eye Centre, was involved in an accident causing serious injuries, he was examined by DTC Medical Board once again and found to be medically unfit. The DTC Board then decided vide resolution no.25/2012 to get all those drivers who were declared fit by Guru Nanak Eye Centre after re-examination to be re-examined by an Independent Medical Board. The applicant also was examined by the Independent Medical Board on 26.08.2013 and was declared medically unfit due to defective eye vision. Following that on 26.03.2014 the respondents have issued a show cause notice as to why the services of the applicant as Driver in DTC should not be terminated.

2. It has been argued by the learned counsel for the applicant that he had completed his probation period in 2012 and by the time he was examined by the Independent Medical Board he was a regular employee of DTC. His services, therefore, cannot be terminated without going through the procedure prescribed under the relevant rules. Learned counsel also referred to the judgment of Hon'ble High Court in WPC no.4212/2014 **Suresh Chand and anr. Vs. Delhi Transport Corporation** and batch, decided on 14.07.2014 wherein under similar circumstances the Hon'ble High Court held that it should not be open to the Respondent –

DTC to terminate or dismiss the petitioners on the basis of the alleged fraud merely by giving a show cause notice and calling for reply. The Hon'ble High Court ordered that "In case the respondents are proceeding to hold enquiry, petitioners should be placed under suspension, at least from the date their first lay off, and the concerned rules with regard to the payment of subsistence allowance shall be complied with". The SLP filed by the respondents against this judgment was dismissed on 16.01.2015. Thereafter the respondents have implemented the judgment in the respect of the petitioners in the batch of cases. In OA No.3938/2013 vide order dated 29.09.2015 this Tribunal relying on Suresh Chand (supra) ordered similar relief to be given to the applicant in that case.

3. The facts in the present OA as narrated in preceding paras are similar to that in OA No.3938/2013. That being the case, following the ratio of OA No.3938/2013, the show cause notice dated 26.03.2014 issued to the applicant is quashed and set aside. The respondents are directed to pass similar order in respect of the applicant in this OA as in the case of Raju Driver, the applicant in OA No.3938/2013, within a period of two months from the date of receipt of a copy of this order. OA is disposed of with the above direction. No costs.

(V.N. Gaur)
Member (A)

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