

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.679/2014

Order reserved on 30th August 2018

Order pronounced on 4th September 2018

**Hon'ble Mr. K.N. Shrivastava, Member (A)
Hon'ble Mr. Ashish Kalia, Member (J)**

Shri Sombir s/o Shri Hari Chand
Ex Truck Driver
R/o 28-A, Block Extension II
Nangloi, Delhi

(Mr. Meenu Mainee, Advocate)

..Applicant

Versus

Govt. of NCT Delhi through

1. Chief Secretary
Govt. of NCT of Delhi
Delhi Secretariat
ITO, Delhi
2. Assistant Commissioner (G-I)
Delhi Jal Board
Govt. of NCT Delhi
Varunalya PH II
Karol Bagh, New Delhi

..Respondents

(Mr. Rajeev Kumar, Advocate)

O R D E R

Mr. K.N. Shrivastava:

Through the medium of this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs:-

“8.1 That this Hon'ble Tribunal may graciously be pleased to allow this application and direct the respondents to reinstate the applicant

because he had been honourably acquitted from the charges which were leveled against him falsely and there was no evidence whatsoever in support of the same.

8.2 That this Hon'ble Tribunal may be further pleased to direct the respondents to give all consequential benefits including back wages."

2. The factual matrix of the case, as noticed from the records, is as under:-

2.1 The applicant was engaged as a vehicle driver on contractual basis vide its order No.340 dated 18.09.1998 by the Delhi Jal Board (DJB) – respondent organization.

2.2 While the applicant was driving the official vehicle DL-1 M 0231 on 19.12.2000, the vehicle hit and fatally injured a person at Punjabi Basti, Baljeet Nagar. Consequently, the applicant's services were discontinued by DJB vide impugned Annexure A-1 order dated 12.02.2001.

2.3 A criminal case was also lodged against him by way of registration of FIR No.403/2000 at Police Station, Anand Parbat under Sections 279/337/338-A IPC. He was tried before the Additional Chief Metropolitan Magistrate, West, Tis Hazari Courts, Delhi. The criminal court acquitted him vide order dated 31.07.2013; the operative part of which reads as under:-

"17. The witnesses i.e. PW1 and PW19, on whose instance the accused was identified to be driver in this case, were hostile in respect of such fact. Another witness PW7 went on to identify the accused to be driver of this water tanker. However, he did not explain that when and how he could see the accused on the day of accident. From his statement, it is apparent that he could not have identified the accused before the police on 20.12.2000 being unconscious at that time. In such situation, the identification of the accused has not been established beyond all doubts as driver of water tanker. Therefore, I

find that presumption of guilt of accused for alleged offences cannot be raised by this court. Hence, accused Sombir is acquitted of the charges u/s 279/337/338/304-A IPC.”

2.4 Following the acquittal of the criminal court, the applicant approached the DJB with his Annexure A-4 representation dated 26.08.2013 seeking his reengagement. As no action was taken by the DJB on the said representation, the applicant sent Annexure A-5 legal notice dated 09.09.2013 to DJB.

2.5 The applicant has contended that an identically situated person, namely, Shri Sanjeev Kumar s/o Shri Ram Maher Sharma, who was also engaged as vehicle driver on contractual basis by DJB and while driving a truck of the department had hit a girl, who died on spot and is facing trial in a criminal court, has been reengaged by the DJB, but the applicant's request for reengagement is not being considered, despite he having been discharged from the criminal case. In this regard, the applicant has drawn our attention to the office order No.137 (Dist.) dated 25.07.2013 (Annexure A-8) whereby the said Shri Sanjeev Kumar has been reengaged on contractual basis w.e.f. 21.12.1999.

3. We heard the learned counsel for the parties and perused the records.

4. From the records, we find that the sole reason for the disengagement of the applicant was the road accident, in which the departmental vehicle driven by him had fatally injured a person. Now since the applicant has been acquitted by the criminal court, it is only natural that he would seek reengagement in DJB. It is also an admitted fact that another driver, Shri

Sanjeev Kumar, engaged on contractual basis, was disengaged when the departmental truck, driven by him, had hit a girl killing her on spot. However, he has since been reengaged by the DJB vide office order dated 25.07.2013, as noticed hereinabove.

5. We are conscious of the fact that the contractual engagements are need-based. One would not be sure as to whether the DJB would still be having requirement of engaging drivers on contractual basis at this juncture. But if there is any such requirement, the applicant has a legitimate claim for his consideration for the same.

6. In the conspectus, we dispose of this O.A. with a direction to DJB to decide the Annexure A-4 representation of the applicant within a period of eight weeks from the date of receipt of a copy of this order, under intimation to the applicant. No order as to costs.

(Ashish Kalia)
Member (J)

/sunil/

(K.N. Shrivastava)
Member (A)