

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.2416/2014

New Delhi this the 9th day of August, 2018

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N.Terdal, Member (J)

Shri Rishi Prakash
S/o Shri Maha Singh
R/o Village & P.O. Sanoth,
Narela, Delhi. (Age 53 years)

... Applicant

(By Advocate: Mr.Rajiv Agarwal)

VERSUS

Delhi Transport Corporation
Through its Chairman,
I.P.Estate, New Delhi.

... Respondent

(By Advocate Ms. Swati Jain for Ms. Ruchira Gupta)

O R D E R (ORAL)

Mr. S.N.Terdal, Member (A):

Heard Mr. Rajiv Agarwal, counsel for applicant and Ms Swati Jain for Ms. Ruchira Gupta, counsel for respondent, perused the pleadings and all the documents produced by both the parties.

2. In the OA, the applicant has prayed for the following reliefs: "(1)
- (i). direct the respondent to comply with the award dated 19.08.2009 and to reinstate the applicant in service with continuity of service and full back wages since the date of award i.e. 19.08.2009 along with all consequential benefits either monetary or otherwise;
 - (ii). pass any such other or further order(s) as this Hon'ble Tribunal may deem fit and appropriate in favour of the applicant; and
 - (iii). Allow the present Original Application with costs, in favour of the applicant."

3. The relevant facts of the case are that the applicant was appointed as Retainer Crew Driver (R/C Driver) in the respondent-DTC w.e.f. 03.09.1998. But, however, he remained absent for more than 710 days without permission during the year 2004-2005. As such he was terminated from service. Subsequently, he started a proceeding under the Industrial Dispute Act and in furtherance of the said proceedings, the Labour Court in proceeding ID No.61/08 in the matter of **M/s Delhi Transport Corporation through its Chairman, I.P.Estate, New Delhi Vs Sh. Rishi Prakash** passed an award based on the proceeding of mediation. The relevant portion of the said award, namely, para 6, 7 and award are extracted below:

- "6. The parties who appeared in the mediation entered into an agreement settling the matter which terms of mutual agreement as noted by the Ld. Mediator are as under:-
- a. That the workman will be appointed in the Corporation as a R/C driver afresh subject to possessing the valid driving licence and medical fitness from DTC Medical Board.
 - b. That he will not be given any benefit whatsoever for the intervening period i.e. from the date of termination till afresh appointment.
 - c. The workman will withdraw the cases if any pending before any courts.
 - d. Both the parties undertake to remain bound by the terms of settlement.
7. After perusing the agreement reached between the parties in the mediation and upon hearing the parties, I find that the management is willing to take the workman on duty. The statement of the AR for the workman without oath is recorded. Hence, I pass the following award.

AWARD

The reference is answered as settled between the parties as per the terms of agreement reached between the parties before the Mediation Cell recorded in its report dated 19.08.09.

Both the parties shall abide by the terms of settlement reached.

Copies of this award be sent to the appropriate government for publication. File be consigned to record room."

4. The main condition of the above said award is that the respondent-Corporation will appoint the applicant as R/C Driver afresh subject to possession of valid driving licence and medical fitness certificate issued by the DTC Medical Board. Accordingly in furtherance of the said award it has been stated in the reply filed by the respondents that the applicant was sent for medical examination before the medical board on 23.11.2009 and the concerned Medical Board after medical examination found that the applicant was medically unfit for the purpose of appointment as Driver. The fact was informed to the applicant. The applicant submitted a medical report issued by Satwari Harish Chander Hospital claiming that he is medically fit and another medical report issued to him by the AIIMS. In view of his further claim the respondent directed the applicant to appear for re-examination by the Medical Board once again vide their letter dated 25.11.2010. On the re-examination by the Competent Medical Board, he was declared by the Medical board that he was medically unfit.

5. Counsel for the applicant vehemently and strenuously contended on the basis of the medical report submitted by the applicant issued by the said Satwari Harish Chander Hospital and on the basis of the medical report by the AIIMS that the rejection of appointment of the applicant afresh is bad in law and the respondent should be directed to appoint the applicant afresh for the said post of R/C Driver as per the award. But, however, in view of the findings of the competent

medical report after examining him twice once on 23.11.2009 and 25.11.2010, we are of the view that the OA of the applicant is devoid of merit.

6. According, OA is dismissed. No order as to costs.

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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