

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.2327 of 2016

Orders reserved on : 11.07.2018

Orders pronounced on : 18.07.2018

Hon'ble Mr. Justice Dinesh Gupta, Member (J)
Hon'ble Ms. Praveen Mahajan, Member (A)

Prem Singh Verma, Ex – Driver (DTC)
S/o Sh. Man Singh Verma,
Age – 38 years,
Batch No.21894, P.T. No.63945,
R/o 13-D, Govind Nagar,
Krishna Nagar, Mathura, U.P.

....Applicant

(By Advocate : Shri U.C. Mathpal)

VERSUS

1. Delhi Transport Corporation,
Through its Chairman-cum-Managing Director,
Govt. of NCT of Delhi,
I.P. State,
New Delhi-110002.
2. Regional Manager (East)/Appellate Authority,
Delhi Transport Corporation,
Nand Nagri Depot Complex,
Delhi.
3. Depot Manager,
Delhi Transport Corporation,
Noida Depot, Sector – 16,
Noida (U.P.).
4. Regional Transport Authority,
Through MLO,
Transport Deptt. Govt. of NCT of Delhi,
Mayur Vihar – I,
Delhi.
5. Govt. of NCT of Delhi
Through its Secretary-cum-Commissioner
(Transport),
5/9, Under Hill Road,
Delhi-110054.

.....Respondents

(By Advocate : Ms. Arati Mahajan Shedha for R-1 to R-3
Shri Anmol Pandita for Shri Vijay Pandita for
Govt. of NCT of Delhi)

ORDER

Justice Dinesh Gupta, Member (J) :

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

“8.1 That the Hon’ble Tribunal may graciously be pleased to allow the OA and quash/set aside the impugned order dated 04.04.2016 of the respondent for termination of services of the applicant and also quash/set aside the Appellate Authority/Regional Manager(East) order, communicated by Depot Manager, Noida Depot vide letter no.NOD/PFC(Dr.)/Appeal/2016/5257 dated 17.06.2016 (Annexure A/1 & A/2) thereby reinstating the applicant with full back wages with continuation of service and all other service benefits applicable to him, if he would have been in service, in the interest of justice.

8.2 That the Hon’ble Tribunal may further be pleased to issue directions to the respondent no. 4 & 5 to revoke the cancellation of the driving license no. DL-0719960065210 and PSV Badge No.P071002895 of the applicant in reference to Sh. Manvinder Singh, Depot Manager, Noida Depot, letter no. 2014/867 dated 24.02.2014 (Annexure A-14).

8.3 That the Hon’ble Tribunal may further be pleased to pass any order or further order as may be deemed fit and proper on the facts and circumstances of the case.

8.4 That the Hon’ble Tribunal may further be graciously pleased to grant costs against the respondents and in favour of the applicant being a most illegal action taken by the Depot Manager, Noida Depot, DTC against the applicant.”

2. Brief facts of the case as enumerated in the OA are that the applicant on being selected through written test conducted by the DSSSB, Delhi and skill test and medical test conducted by the DTC, was given offer of appointment for the post of Driver vide letter dated 11.12.2008.

2.1 The applicant joined the services of the respondent nos.1 to 3 on 29.12.2008 as a Driver. The applicant continued with his service and successfully completed the

probation period and he was confirmed in the post of Driver w.e.f. 29.12.2010.

2.2 In the year 2014, the DTC verified the driving license of the applicant vide letter dated 18.2.2014 from concerned Licensing Authority at Mathura (U.P.) and the report was submitted by the ARTO (Admn), Mathura, vide letter dated 19.2.2014. The name of the applicant is mentioned in the said report at serial no.1 and it was informed that the driving license No.D-898/MTR/96 has not been issued by the said authority.

2.3 In pursuance of the said verification, the Depot Manager, DTC, Noida Depot issued a show cause notice to the applicant vide letter dated 24.2.2014 informing that the said driving license issued in favour of the applicant is found fake as per the official records of Transport/Licensing Authority, therefore, why the appointment of the applicant being void *ab initio* should not be terminated.

2.4 On receiving the said show cause notice, the applicant surprised to know that his license is fake, as he got the same after qualifying the prescribed test of driving conducted by the concerned authority. It is stated by the applicant that being a permanent resident of Mathura, the applicant contacted the other persons, who qualified the driving license test with the applicant and found that first letter of his driving license is to be 'P' and not 'D'. However, the same is looked like 'D' as evident from the license issued on 31.12.1996. Accordingly, the applicant had mentioned his driving license Number as D-898/MTR/96 in place of P-898/MTR/96 in his joining report, affidavit dated 10.12.2008 and other documents (Annexure-A/8 (Colly)). As such in reply to the said show cause notice, the applicant submitted his reply dated 24.3.2014 and also an affidavit informing to the Depot Manager, Noida Depot that the license number of the applicant is P-898/MTR/96 and not D-898/MTR/96. If required, the said license number may

be verified from the concerned authority. As during that period, the applicant was on deputation in Delhi Secretariat, therefore, a letter dated 1.4.2014 (Annexure A/10) regarding verification of his aforesaid driving license was also sent by Addl. Secretary, PGMS/WIDC to the Chief General Manager (P), Chairman Office, Delhi Transport Corporation.

2.5 After the above information, it is learnt that a team of officers visited Mathura Authority to verify the driving license of the applicant along with others. The verification letter was issued vide letter dated 10.4.2014 and the same was verified by the Office of the ARTO (Admn.), Mathura vide letter dated 11.04.2014 in which the name of the applicant is mentioned at serial no.3 and against his name, it is written as 'Jari Hai' (issued) in the concerned column, copy of aforesaid letters are annexed as Annexure A/11 (Colly).

2.6 As the concerned authority found the driving license of the applicant as genuine, the Depot Manager, Noida Depot, Sector-16, Noida revoked the show cause notice of termination of the applicant vide letter dated 24.4.2014 (Annexure A/12).

2.7 In the meantime, the applicant got transferred his driving license from Mathura to Surajmal Vihar Delhi and afterward to Mayur Vihar, Delhi because of change of communication address of the applicant, Delhi Authority issued Driving License No.DL-0719960065210 to the applicant (Annexure A/13 (Colly.)). However, while issuing the said show cause notice dated 24.2.2014, the Depot Manager, Noida Depot, without waiting for the reply of applicant, issued a letter to the licensing authority, Mayur Vihar, Delhi vide letter dated 24.2.2014 for cancellation of the driving license No. DL-0719960065210 and PSV Badge No.P071002895 of the applicant. But at the time of revocation of the said show cause notice, the Depot Manager, Noida Depot did not inform to the Mayur Vihar Authority for revival of cancelled license

and Badge number of the applicant, thus the same were remained cancelled in the records of Mayur Vihar Authority. Although the applicant had been serving in the Corporation. This is a great mistake on the part of Depot Manager, Noida Depot as the applicant was neither informed by the DTC about their aforesaid action nor he had any knowledge about this because the driving license of the applicant was to be valid upto 9.1.2017.

2.8 After sometime, a new Depot Manager took over the charge of Noida Depot and found that the license no. DL-0719960065210 of the applicant is not genuine in the website of Transport Department, Govt. of N.C.T. of Delhi and suspended the applicant vide letter dated 11.3.2016. However, instead of correcting their mistake by informing the Authority/Transport Department, Mayur Vihar, Delhi that the driving license of the applicant was found genuine from Mathura Authority, the Depot Manager, Noida Depot again issued a show cause notice dated 18.3.2016 for the same cause of action which had already been decided by the competent authority in the year 2014, as he also sent wrong driving license number, i.e., D-898/MTR/96 of the applicant for verification to Mathura Authority without any base and the same was found as 'not issued' as the license number was wrong.

2.9 The applicant again sent a detailed reply to the Depot Manager along with documentary proof, including affidavit vide letter dated 22.3.2016 (Annexure A-17 (Colly.) explaining full facts of the case which had been decided in favour of the applicant. However, in stead of revoking the said suspension order of the applicant and also reviving the said driving license and badge number, the Depot Manager, Noida Depot terminated the services of the applicant vide impugned order dated 4.4.2016 (Annexure A/1).

2.10 The applicant preferred his appeal against the aforesaid impugned order of the disciplinary authority to the appellate authority/Regional Manager (East), Delhi Transport Corporation, Delhi vide his letter dated 13.4.2016 but his appeal has been rejected by the appellate authority vide impugned communication dated 17.6.2016 (Annexure A/2).

2.11 Feeling aggrieved by the aforesaid orders, the applicant has filed the instant OA seeking the reliefs as quoted supra.

3. Pursuant to notice issued to the respondents, they have filed their reply affidavit, as one has been filed by respondent nos.1 to 3 and another by Govt. of NCT of Delhi.

3.1 In the reply filed by Govt. of NCT of Delhi, they have stated that the present OA is not maintainable in respect of respondent nos.4 and 5, as the termination order has been passed by Delhi Transport Corporation being respondent nos.1 to 3. They further stated that the Driving License No. DL-0719960065210 and PSV Badge No.P071002895 issued to the applicant were cancelled on the basis of letter dated 24.2.2014 issued by Sh. Manvinder Singh, Depot Manager, Depot Sector-16, Noida to Motor Licensing Officer, Govt. of NCT of Delhi, Transport Department, Zonal Office, Mayur Vihar, Delhi-110091.

3.2 They also stated that as per available records, the license number DL-0719960065210 was issued on 18.8.2010 to the applicant authorizing him to drive Motor Cycle with Gear (NT) Light Motor Vehicle Non Transport, transport Vehicle M/HMV (Regid Chassis) – Goods (HT) on the basis of old license number D-898/MTR/96 from the Surajmal Vihar, Authority (Annexure R-1). Thereafter, the said license was renewed having new number DL-0719960065210 from Mayur Vihar Zonal Office on 11.1.2011 and 10.1.2014 (Annexure R-2 & Annexure R-3 respectively). The Public Service Vehicle (PSV) Badge number P071002895 was issued on 4.3.2014 (Annexure R-4). After that a letter addressed to Motor

Licensing Officer, Govt. of NCT of Delhi, Transport Department Zonal Office Mayur Vihar, Delhi-110091 dated 24.2.2014 issued by Shri Manvinder Singh, Depot Manager, Noida Depot, Secto-16, Nodia has been received, wherein, it is informed to cancel the Driving Licence No. DL-0719960065210 and PSV Badge No.P071002895 issued to the applicant on the basis of enquiry had been conducted regarding genuineness of the original Driving License issued by Mathura RTO and it is found that the Driving License issued from the Mathura is not genuine, by their team. Accordingly, the Driving License as well as PSV Badge issued to the applicant were cancelled and the said Driving License and PSV Badge were remained cancelled.

4. In the counter affidavit filed respondent nos.1 to 3, they have stated that as per the direction of the CBI, RTO Mathura was requested to verify the genuineness of the Driving License of the applicant vide letter dated 12.3.2016. A response was received from the ARTO Mathura stating that as per the office record the license No.D-898/MTR/96 was not issued as per office record and hence, was fully forged. After receiving the status of the license of the applicant from ARTO Mathura, the applicant could not have been allowed to drive.

4.1 They further stated that the applicant had given an undertaking by filing the affidavit dated 10.12.2008 to the effect that he holds a driving license no.D-898/MTR/96 issued from Licensing Authority Mathura, U.P. and the same was a genuine one, and that he shall be fully responsible for the consequences if any of the above stated facts are found to be wrong and that he also undertakes that his services are liable to be terminated, if any discrepancy is noticed in information/declaration furnished above or any document submitted by him is found to be fictitious or not genuine.

4.2 They also stated that in the above circumstances, there was no requirement of even issuing any show cause notice to

the applicant because the moment a driver is found to have not possessing a valid driving license from the date of his appointment itself, his appointment on the post of Driver itself with DTC becomes void-ab-initio and the employer-employee relationship itself ceases to exist/vanish from the date of appointment itself and there is hence no requirement of issuing any chargesheet, holding any domestic inquiry or issuing any show cause notice to such a person. However, a show cause notice dated 18.3.2016 was issued invoking the procedure laid down under para 9 (b) of the executive instructions on procedure regarding disciplinary action and appeals only as a matter of abundant caution, so as to give an opportunity to the applicant.

4.3 They have further stated that licenses of more than 200 other drivers of DTC, mostly having licenses allegedly issued by Mathura and Agra Transport authorities were too found to be fake on investigation and the services of many of these drivers have already been terminated from the Corporation on different dates on the ground of fake Driving Licenses. They have mentioned the details of some of such persons whose services have been terminated.

4.4 They also stated that pursuant to abovementioned show cause notice dated 18.3.2016, the applicant submitted a vague reply dated 22.3.2016 that his license number was P-898/MTR/96 and not D-898/MTR/96 which is *prima facie* contrary to copy of license as well as the affidavit dated 10.12.2008 submitted by him. The said reply was fully considered by the competent authority and not found at all satisfactory and the services of the applicant were terminated with immediate effect vide order dated 4.4.2016.

4.5 The applicant preferred an appeal to the appellate authority which was duly considered and rejected vide a speaking order dated 14.6.2016 by the appellate authority

and the applicant and the applicant was duly informed vide letter dated 17.6.2016.

4.6 They further stated that this fraud/operation of the racket of illegal licenses in the license issuing authorities especially those of Mathura and Agra, came to light during the investigation into the alleged documents of the convicted terrorist Kasab, as it is clear from the report/communication dated 4.9.2010 of the Deputy Transport Commissioner, Agra Region submitted to the Chief Secretary, Transport Uttar Pradesh Government, Lucknow that investigation/verification report of the records pertaining to the driving license issued by the Mathura Licensing Authority revealed that while one register was being used in the office and other parallel registers were being used outside the office by some racket in which there was a strong possibility of connivance of the employees of the office. These entries in the registers outside the office were being later included in the records of the office and in this manner the records of the Driving Licenses of the Mathura office became corrupt. Hence, the verification of validity of any Driving License can only be done on the basis of the fees deposited in the cash department in the name of the holder of the Driving License on that date only and not on the basis of the entry in the records.

4.7 They further averred that referring to the communication dated 19.8.2010 addressed by the Asstt. Transport Commissioner (Admn.), Uttar Pradesh to the Addl. Secretary, Ministry of Home, GOI, which specifically refers to some letters wherein it was mentioned that the officer of the Mathura ARTO had even given NOC while issuing of licenses, but when Delhi Police inquired then ARTO Mathura told that all the applicants have not deposited registration fees, hence, licenses of all the candidates have been cancelled. Further in the same communication, it is stated that in the case of 220 candidates, who had been selected for the post of Driver, on verification by the Deputy Commissioner, Delhi, the ARTO

Mathura had vide its letter dated 3.5.2010 informed that as per the records of the office the requisite prescribed fees for the issuance of license was not found deposited and further that the name and address of no license holder was found complete and hence, the licenses were not legally issued from their office.

4.8 They also stated that it is clear that the applicant is one such person who got a fake license illegally issued from the Mathura Licensing Authority without depositing the requisite license fee with the office through the illegal racket operating outside the office. It may not be out of place to mention that not only has the ARTO, Mathura returned the verification report with respect of his license stating that the same has not been issued by the said Authority, but also that the applicant has not been able to show that he made any payment of the requisite fee for the license in the cash department on the said date.

4.9 They further stated that DTC has issued a show cause notice to the applicant as well as terminated his services in due accordance to the principles of natural justice which it is fully justified to do in view of the remarks returned by the Licensing Authority, Mathura read with the terms and conditions of appointment of the applicant. There is absolutely no illegality either in show cause notice or the action of the respondents in terminating the services of the applicant and the OA is liable to be dismissed with costs.

4.10 The respondents have also raised preliminary objections that the instant OA is bad for non-joinder of necessary parties and is liable to be dismissed on this ground alone as since it is the Licensing Authority, Mathura which has returned the finding that the License of the applicant was not issued by it. Therefore, the Licensing Authority, Mathura, is an important and necessary party for adjudication of the dispute at hand. Further it is a fact that the License Issuing Authority,

Mathura has itself stated in its verification report on the letter sent to it for verification by DTC that the License in question has not been issued by it and is fully faked. If any further substantiation is required then it would be essential to implead the Licensing Authority Mathura as a necessary party to the OA. Therefore, its non-impleadment renders the OA liable to be dismissed on this ground alone as well.

4.11 Another preliminary objection raised by the respondents is that the applicant has not challenged the verification report dated 14.3.2016 given by the License Issuing Authority, Mathura stating that the License in question has not been issued by it and is completely bogus/fake. The Respondent – Corporation being a public utility carrier cannot appoint drivers whose licenses are declared to be faked by the License Issuing Authority themselves. If the applicant has any grievance against the termination or show cause notice issued to it by the respondent – Corporation, he has to first challenge the said verification report dated 14.3.2016 as the show cause notice and termination order have been issued on the basis of the report. However, the applicant has failed to even challenge the verification report dated 14.3.2016. Hence, the instant OA is liable to be dismissed on this ground alone as well.

4.12 The respondents have also raised another preliminary objection that the applicant has deliberately not disclosed the complete facts in the OA so as to mislead this Hon'ble Tribunal. Hence, the instant OA is liable to be dismissed on this ground of concealment of material facts alone as well.

4.13 They further stated that the instant OA is liable to be dismissed on the ground that if the applicant had any grievance with the report of the License Issuing Authority, he ought to have appealed against the same under Motor Vehicles Act 1988 (Section 19 (e) read with clause 4 of the Motor Vehicles Rules) which opportunity the applicant has

himself not availed further highlighting his malafide intentions. The purpose of the said show cause notice itself was to allow the applicant to avail the said opportunity if he wanted, which he did not.

4.14 They further stated that although it is true that the applicant has challenged the termination order dated 4.4.2016 as well as the rejection of his appeal by the appellate authority, however, it is most respectfully submitted that the Driving License on the basis of which the applicant had got appointment as a Driver with DTC was found fake on the basis of verification report submitted by the Transport Authority of Mathura. Thus, there is no illegality in the action of the respondents and hence, the applicant has absolutely no cause of action and the instant OA is liable to be dismissed with costs.

4.15 The respondents have denied the averment of the applicant that the respondents could not seek re-verification of any documents submitted at the time of appointment. They also submitted that a valid Driving License is an essential prerequisite for appointment as a Driver with DTC and the applicant committed a fraud by submitting a fake Driving License at the time of appointment and therefore, his services are liable to be discharged from the threshold.

4.16 The averment of the applicant that first letter of his driving license 'D' is actually looked like 'P' is denied as 'D' is quite clear.

5. The applicant has also filed his rejoinder to the reply filed by respondent nos.1 to 3 in which it is stated that he is a permanent resident of Mathura and the motor driving license was issued to him by Licensing Authority, Motor Vehicle Deptt., Mathura on 31.12.1996 and the same is genuine having license No.P-898/MTR/96.

5.1 The applicant further stated that at the time of joining, the applicant mentioned the license number in the affidavit

dated 10.12.2008 as D-898/MTR/96 because the same is looking like that. This mistake has already come into the knowledge of respondent – DTC vide ARTO (Admn.), Mathura letter dated 19.2.2014 and issued a show cause notice dated 24.2.2014 to the applicant. After that the applicant contacted the Mathura Authority and was informed that the first letter of the license no. is 'P' and not 'D'. Accordingly, the applicant vide letter dated 24.3.2014 informed the respondent – DTC. The respondent – DTC deputed a team of two officials comprising of Shri Budh Ram, TI, T.No.23089 and Shri Raghubir Singh, ATI, T. No.23105 vide order dated 10.4.2014 to Mathura Authority for verification of 12 numbers of licenses including the license of the applicant (No.P-898/MTR/96 (information received under RTI after filing the OA) and the reports of the same were obtained vide letter dated 11.4.2014 and the license of the applicant which has been mentioned at serial no.3 in the said letter is found as 'Jari Hai', i.e., issued by the Mathura Authority and the same is genuine. The said information was also provided by the respondents by RTI Act, 2005 vide letter dated 19.8.2016 along with enclosures (Annexure RJ-1 (Colly)).

5.2 However, the respondents did not disclose the above facts that the correct license number of the applicant has already been verified from the Mathura Authority. Actually the Depot Manager, Noida Depot, sent the wrong driving license number of the applicant for verification vide its letter dated 12.3.2016. Therefore, the same could not be verified by the Mathura Authority. The applicant obtained his motor driving license after depositing prescribed fees and passing the test conducted by the Mathura Authority. Thus, the applicant neither obtained any fake license from the Mathura Authority for the purpose of procuring employment in DTC nor caused any danger to the life of passengers and public at large.

5.3 The said show cause notice dated 18.3.2016 has been issued by the respondent – DTC on the basis of verification of wrong license number and invoking the procedure laid down under para 9 (b) of the executive instructions for termination of services of the applicant is totally illegal and baseless.

5.4 In reply to preliminary objection of non-joinder of necessary parties, the applicant has stated that there was no need to make Licensing Authority, Mathura as a party because the said Authority has already verified the License No.P-898/MTR/96. It is the mistake on the part of the respondent (Depot Manager, Noida Depot), who sent wrong license number (D-898/MTR/96) for verification to the MLO, Transport Authority Mathura (U.P.) vide letter dated 12.3.2016 (Annexure R-6 of the counter reply) and accordingly Transport Authority Mathura vide letter dated 14.3.2016 informed that the said license is not issued by them. The applicant has not obtained any fake license from the said Authority and the same is genuine and issued long back in 1996 whereas the applicant joined the respondent Corporation in 2008.

5.5 There is no need on the part of the applicant to reply all points in his rejoinder because the respondents vide its letter dated 12.3.2016 got verified the wrong license number and the applicant is not concerned with this, thus the averments made by the respondents in its counter reply are baseless and not tenable in the eyes of law.

5.6 It may be true that the Mathura Authority has issued fake licenses as revealed from the report/communication dated 4.9.2010 by the Deputy Transport Commissioner, Agra Region to the Chief Secretary Transport, U.P. Govt. Lucknow but the applicant has not obtained any fake license and the same is genuine. Moreover, the applicant's license was got verified by the respondents on 11.4.2014, i.e., around 04

years after the said report dated 4.9.2010 and the corrupt officials have been sent to jail.

5.7 The Depot Manager, Noida Depot requested the MLO, Mayur Vihar-I, Delhi for cancellation of the driving license and PSV Badge vide letter dated 24.2.2014 without waiting for the reply of show cause notice of termination of the same date i.e., 24.2.2014 issued to the applicant. The applicant was not aware about the cancellation of his license and PSV badge till second show cause notice dated 18.3.2016 was issued to him. By the time the period for preferring appeal against the cancellation of license and PSV Badge under Motor Vehicle Act, 1988 has expired.

5.8 The applicant further refuted the contentions as raised by the respondents in their counter in support their impugned orders.

5.9 The applicant has also stated that this Tribunal vide Order dated 26.10.2016 in OA 2351/2015 (***Hari Om Singh vs. DTC and others*** and other connected OAs) held that applicants therein need to be reinstated in service since the termination of services of these employees is illegal without conducting departmental enquiry under Regulation 15 of the D.R.T.A. (Conditions of Appointment & Service) Regulations, 1952. The Hon'ble High Court of Delhi has also refused to interfere in the aforesaid Order of this Tribunal in the above mentioned cases as held in Writ Petition (Civil) No.1111/17 titled as ***Delhi Transport Corporation vs. Ramphal*** on 10.2.2017.

5.10 It is immaterial whether the verification was conducted on the direction of CBI/Criminal Investigating Agency or otherwise, the fact is that wrong driving license of the applicant was verified for taking action against him and thus violated Articles 14 & 16 of the Constitution of India. The respondents have terminated the services of the applicant arbitrarily, illegally and without application of mind.

5.11 The applicant further stated that no show cause notice was issued by the respondents before cancellation of his license and badge number under Section 19 (e) of the Motor Vehicle Act, 1988. Thus, reasonable opportunity was denied to the applicant by respondents.

5.12 The respondents illegally cancelled the license no.DL-0719960065210 and PVS Badge No.P071002895 of the applicant because the respondent DTC vide letter dated 11.4.2014 had already got verified the correct license number, i.e., P-898/MTR/96 of the applicant and found genuine. Accordingly, show cause notice issued earlier to the applicant was revoked vide letter dated 24.4.2014. It is illegal on the part of the respondent – DTC to send again the wrong driving license of the applicant to Mathura Authority for verification instead of seeking revival of the cancelled license of the applicant by informing the genuineness of the license to the MLO, Mayur Vihar, Delhi.

5.13 Keeping in view of the above facts, the license no.DL-0719960065210 and Badge no.P071002895 of the applicant qualify for revival and the same may be ordered by this Tribunal. Further the license of the applicant was due for renewal on 9.1.2017 but as the matter was sub-judice on that date, the respondent, MLO, Mayur Vihar, refused to renew the same. The respondents may be ordered to renew the license of the applicant w.e.f. 9.1.2017.

6. We heard learned counsel for the parties and perused the material placed on record.

7. Counsel for the applicant submitted the applicant was in possession of a valid and genuine driving license, bearing No.P-898/MTR/96. However, as the word 'P' is mis-described as 'D' in his Driving License issued by the concerned Authority, the applicant while filling the form for appointment to the post of Driver in the DTC had wrongly mentioned his driving license as D-898/MTR/96. Later on when the

applicant shifted to Delhi, he also moved an application for transfer of his license from Mathura to Surajmal Vihar and afterward to Mayur Vihar, Delhi and the Delhi License Issuing Authority at Mayur Vihar, Delhi issued driving license no.0719960065210 to the applicant. In the year 2014, after serving the respondent – Corporation for more than six years, a scam of Mathura Licensing Authority office surfaced out and a CBI inquiry was also conducted in this regard. Since there were number of drivers of respondent – Corporation having driving licenses from Mathura and Agra regions, a verification report was sought by the Mathura and Agra, RTOs in which the name of the applicant was also included showing his driving license No.D-898/MTR/96. The Muthra RTO immediately reported back that the said license was not issued in favour of the applicant. The respondent – Corporation issued a show cause notice to the applicant on 24.2.2014 and without even awaiting the reply of the applicant, a letter was also sent on the same day to the RTO, Mayur Vihar, Delhi for cancellation of the driving license of the applicant and also PSV Bagde and also to hold the applicant's license as blacklisted and the respondent nos.4 and 5 acted on the basis of the letter sent by the respondent nos.1 to 3. The applicant reply to the said show cause notice along with the affidavit stating therein that his actual driving license number is P-898/MTR/96 and also submitted a copy of the same. The respondent – Corporation again sent the said driving license to RTO, Mathura for verification and RTO, Mathura, and also a team of two persons was also sent to RTO, Mathura and after verification, the RTO, Mathura informed the respondent – Corporation that driving license no.P-898/MTR/96 is a genuine driving license issued in favour of the applicant. After receipt of this information, the respondent nos.1 to 3 revoked the said show cause notice issued in 2014 but they failed to inform the respondent nos.4 and 5 regarding recalling of the show cause notice and also for recalling the order of cancellation of the applicant's

aforesaid driving license and PSV Badge and as such on the website of the respondent nos.4 and 5, the same is continuing to show as cancelled and blacklisted. On the basis of the fact of cancellation of applicant's aforesaid license issued by respondent nos.4 and 5, the Depot Manager, Noida Depot, Noida, who joined later on, again issued a show cause notice on 18.3.2016 on the same cause of action, which has already been decided by the competent authority in the year 2014 and again sent wrong driving license no.D-898/MTR/96 for verification to RTO, Mathura and again a report was sent by the RTO, Mathura regarding the said driving license stating therein that the same has not been issued in favour of the applicant. The applicant immediately sent a detailed reply to the Depot Manager along with documentary proof including his affidavit but instead of revoking the suspension order and also reviving the said driving license and PSV Badge, the Depot Manager, Noida Depot, Noida terminated the services of the applicant by the impugned order dated 4.4.2016. The applicant preferred an appeal against the aforesaid impugned order. However, the appellate authority rejected his appeal vide order dated 17.6.2014.

7.1 Learned counsel for the applicant also submitted that the applicant's limited prayer in this OA is against the order of termination of his services as well as order of the appellate authority rejecting his appeal. He further submitted that issuance of second show cause notice on the same set of facts was arbitrary, illegal and against the principles of natural justice, as while issuing the second show cause notice, the respondent nos.1 to 3 have failed to consider the fact that they had issued earlier show cause notice earlier on the same set of facts and its recalling by the competent authority.

7.2 Counsel further submitted that the respondent nos.1 to 3 have failed to discharge their duties while recalling/cancelling the first show cause notice as they have not informed respondent nos.4 and 5, accordingly regarding

cancellation of the said show cause notice and have not requested them to restore the driving license of the applicant, as they have sent a communication to respondent nos.4 and 5 for cancelling the said driving license of the applicant. In the absence of such communication, cancellation and blacklisting of applicant's driving license was remained on their website and the Depot Manager on the basis of cancellation of applicant's driving license by the respondent nos.4 and 5 issued a show cause notice again on the same set of facts which is against the law and again sent a wrong driving license number of the applicant, as D-898/MTR/96, to RTO, Mathura for verification.

7.3 Counsel for the applicant also submitted that respondent nos.1 to 3 while passing the impugned order dated 4.4.2016 failed to consider the reply submitted by the applicant stating therein that his correct driving license number is P-898/MTR/96 but only on the basis of assumption that at the time of filling up of application form, the applicant mentioned his driving license number as D-898/MTR/96, passed the order of termination of services of the applicant. The appellate authority also without considering the grounds taken by the applicant in his grounds of appeal simply rejected his appeal on the assumption that driving license issued by respondent nos.4 and 5 showing cancelled and blacklisted on their website.

7.4 Counsel lastly submitted that respondent nos.1 to 3 have failed to accept their mistake while issuing the second show cause notice as they already knew that in the year 2014 that the correct driving license of the applicant is P-898/MTR/96 issued by the RTO, Mathura and not D-898/MTR/96.

7.5 Counsel for the applicant also placed reliance upon the judgment passed by this Bench in the case of ***Hari Om Singh vs. Union of India*** (OA No.2351/2015 and other connected

cases) decided on 26.10.2016, in which the respondents issued show cause notices and terminated the services of the applicants therein without conducting any inquiry and the Court set aside the show cause notices and directed respondents to reinstate the applicants therein. The said matter went upto the Apex Court and the reinstatement of the applicants in that cases upheld and only payment of backwages was denied. Counsel also placed reliance upon some of the part of the Award passed by learned Pilot Court/Polc-XVII, Dwarka Courts, New Delhi in the case of ***Dheeraj Singh vs. M/s Delhi Transport Corporation*** in LIR 190/18, decided on 26.5.2018, reliance on which is placed by the respondent nos.1 to 3.

8. Counsel for the respondent nos.1 to 3 submitted that the applicant applied for appointment as Driver in the respondent – Corporation showing his driving license as D-898/MTR/96 and on the basis of such wrong driving license, respondent nos. 4 and 5 have issued further driving license on a request made for transfer by the applicant. In 2014, CBI to unearth the corruption of Mathura and Agra regions transport offices wherefrom various fake and bogus driving licenses were issued. On the basis of that report, the respondents also sent the driving license of the applicant for verification and the same was found to be fake as not issued in favour of the applicant. Since it is the applicant, who himself gave the undertaking while filling up the form that any part of the information if found to be wrong later on, his candidature shall be cancelled without any further inquiry, in such a situation, even an inquiry was not required. The applicant was issued only a show cause notice and after considering the report and reply submitted by the applicant, the applicant's services were terminated and the appellate authority also after considering all the relevant facts and grounds taken by the applicant rejected his appeal.

8.1 Counsel further submitted that since it is the applicant, who himself provided a copy of his driving license showing the number as D-898/MTR/96, now he cannot seek change after six years on the ground that in fact his driving license is P-898/MTR/96.

8.2 Counsel lastly submitted that it is not disputed that driving license number D-898/MTR/96 is a fake as not issued in favour of the applicant and the applicant himself mentioned the said wrong/fake driving license number while filling up application form.

9. We are unable to accept the contentions raised by the learned counsel for the respondents, as while arguing the case, the respondent nos.1 to 3 have totally failed to consider the fact that in the year 2014, they had issued a show cause notice on the basis of report obtained from the Mathura RTO regarding driving license No.D-898/MTR/96. The applicant immediately furnished the correct copy of the driving license showing his driving license number as P-898/MTR/96 and a report was also obtained by sending a team of officials of respondent – Corporation to RTO, Mathura wherein they stated that driving license no.P-898/MTR/96 is a genuine driving license issued in favour of the applicant and on the basis of the same, respondent nos.1 to 3 cancelled the show cause notice dated 24.2.2014 of intended termination. It was a fault of the respondent nos.1 to 3, who also sent a communication on 24.2.2014 to respondent nos.4 and 5 to cancel the driving license issued by them to the applicant and also to make order of blacklisting of applicant's driving license. After two years, respondent nos.1 to 3 again issued a show cause notice on the same set of facts, which was also wrong and illegal, as this show cause notice has been issued only on the basis of cancellation of driving license of the applicant by respondent nos.4 and 5. While issuing the said show cause notice in the year 2016, the respondent nos.1 to 3 have totally ignored the fact that earlier in 2014 similar

show cause notice was issued and the same was later on cancelled/revoked. It is also not disputed that the applicant in 2014 submitted a copy of driving license showing his driving license number as P-898/MTR/96 and the same was sent for verification by respondent nos.1 to 3 to RTO, Mathura. Thus, it is established that in 2014, the respondent nos.1 to 3 had complete knowledge of the fact that driving license of the applicant was a valid and genuine, bearing No.P-898/MTR/96. Then again issuance of second show cause notice was totally illegal and against the principles of natural justice. It is also not disputed that respondent no.1 to 3 again obtained a report in respect of driving license No.D-898/MTR/96 while they had full knowledge of the fact that driving license of the bears the number P-898/MTR/96. Instead of accepting this mistake, the respondent nos.1 to 3 issued a show cause notice and without considering the reply and facts stated by the applicant in his reply, also terminated the services of the applicant. From a bare perusal of the termination order, it is clear that respondent nos.1 to 3 have not considered the fact that the actual number of driving license of the applicant is P-898/MTR/96 and not D-898/MTR/96. The appellate authority also failed to consider this aspect and simply rejected the appeal only on the ground that respondent nos.4 and 5 have cancelled the driving license of the applicant, which is clear from that order. Since the appellate authority and disciplinary authority failed to consider this aspect that actual number of applicant's driving license is P-898/MTR/96 and not D-898/MTR/96, both the orders passed by respondents are liable to be quashed and set aside. The respondents relied upon the Award passed by learned Pilot Court/Polc-XVII, Dwarka Courts, New Delhi in the case of **Dheeraj Singh** (supra) and a part of the said Award was also relied upon by the applicant. The said learned labour court observed as under:-

“10. From above discussion, it becomes clear that the claimant, at the time of joining, had furnished copies of driving license on which the number was mentioned as ET-114/M/04 which was sent for verification and Mathura Authority had reported the same as fake. But it is also established that the clamant had submitted copy of his driving license No.ET-114/MTR/04 to the management which was sent for verification on 04.04.2013 upon which MLO Mathura had reported vide letter dated 29.10.2013 that the license was genuine. Hence, the management had come to know on 29.10.2013 itself that the license No.ET-114/MTR/04 was genuine and not fake. In this background, it was not justified to send license No.ET-114/M/04 for verification to the same Authority in March, 2016. The MLO, Mathura also did not lag behind in doing mistake. Before reporting on license No.ET-114/M/04 on 14.03.2016 and 16.03.2016, it should have consulted the register containing entry by the name of the claimant. Had it consulted register by name, the Mathura Authority would have definitely come to know that it had wrongly mentioned the number as ET-114/M/04 on the license granted to claimant which he had submitted before management, because as per register Ex.WW2/3 maintained by it, the exact number of licenses issued to claimant was ET-114/MTR/04.”

10. The aforesaid quoted part of the said Award helps the applicant and not the respondents. When in an identical case in hand, the respondents were having the knowledge of the fact that actual number of applicant's driving license was P-898/MTR/96 then sending again wrong driving license number of the applicant to RTO, Mathura was a mistake on the part of the respondent nos.1 to 3 and both the orders of termination and rejection of applicant's appeal were only passed to cover up that mistake.

11. So far as the judgment passed by this Bench in the case of ***Hari Om Singh*** (supra) is concerned, in that case, the Court was of the view that respondents therein should have conducted an inquiry and without conducting an inquiry, the

order of termination was bad in law. On the contrary in the case in hand, the issuance of show cause notice is bad in law as it has been issued on the same set of facts as first show cause notice was issued by the respondents in 2014 and was cancelled subsequently.

12. The respondent nos.1 to 3 are further at fault for not informing the respondent nos.4 and 5 regarding cancellation of show cause notice and not requested the respondent nos.4 and 5 to restore the license of the applicant as also to pass order of reversing the order of blacklisting the driving license of the applicant.

13. Counsel for the respondent nos.4 and 5 also put in appearance and filed their reply in which they have stated that they have acted only on the basis of communication received from respondent nos.1 to 3. In case they receive any communication/letter relating to restoration of applicant's driving license and for reversing the order of blacklisting the applicant's driving license, they would certainly pass the order in this regard.

14. On the basis of above discussion, it is clear that applicant is entitled to the relief claimed by him in the present OA. Accordingly, OA is allowed. The impugned order of termination dated 4.4.2016 and appellate authority's order dated 17.6.2016 are set aside. The respondent nos.1 to 3 are directed to reinstate the applicant in service forthwith with all consequential benefits. However, respondents are at liberty not to allow the applicant to ply the bus until respondent nos.4 and 5 restore his driving license no.DL-0719960065210 and PSV Badge No.P071002895. Respondent nos.4 and 5 are also directed to restore the said driving license and PSV Badge of the applicant immediately and also pass an order reversing the order of blacklisting of the applicant's said driving license. On restoration of applicant's driving license only thereafter the respondent nos.1 to 3 will allow the

applicant to ply the bus. In the meantime, the respondent nos.1 to 3 will take any other suitable work from the applicant and pay salary to the applicant. The respondents are directed to complete this exercise within a period of one month from the date of receipt of certified copy of this Order. There shall be no order as to costs.

(Praveen Mahajan)
Member (A)

(Justice Dinesh Gupta)
Member (J)

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