

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/586/2017
O.A. No.60/705/2017

Date of decision: 01.10.2018

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. AJANTA DAYALAN, MEMBER (A).

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I. O.A. No.60/586/2017

Avtar Singh S/o Sh. Gurdev Singh, age 57 years, R/o H. No.37, Village Dhanas, U.T. Chandigarh (Group D).

... APPLICANT

VERSUS

1. The Secretary Transport, Union Territory Secretariat, Deluxe Building, Sector-9, Chandigarh.
2. Director Transport, Chandigarh Transport Undertaking, Plot No.701, Industrial Area, Phse-1, Chandigarh.
3. Divisional Manager, Chandigarh Transport Undertaking, Plot No.701, Industrial Area, Phase-1, Union Territory, Chandigarh.

... RESPONDENTS

PRESENT: Sh. R.S. Khosla, Sr. Adv., along with Sh. Sarvesh Malik, counsel for the applicant.
Sh. Gagandeep Singh Chhina, counsel for the respondents.

II. O.A. No.60/705/2017

Harinder Singh S/o Sh. Kulwant Singh, age 56 years, R/o Village and P.O. Bhaka Majra, Tehsil Chamkaur Sahib, District Ropar, Punjab.

... APPLICANT

VERSUS

1. The Secretary Transport, Union Territory Secretariat, Deluxe Building, Sector-9, Chandigarh.
2. Director Transport, Chandigarh Transport Undertaking, Plot No.701, Industrial Area, Phse-1, Chandigarh.
3. Divisional Manager, Chandigarh Transport Undertaking, Plot No.701, Industrial Area, Phase-1, Union Territory, Chandigarh.

... RESPONDENTS

PRESENT: Sh. R.S. Khosla, Sr. Adv., along with Sh. Sarvesh Malik, counsel for the applicant.
Sh. Asem Rai, counsel for the respondents.

ORDER (Oral)**SANJEEV KAUSHIK, MEMBER (J):-**

1. This order shall dispose of above two captioned O.As as points involved in these cases is common in nature.
2. For convenience, facts are being taken from the case of Avtar Singh vs. Secretary Transport, U.T. Chandigarh & Ors.
3. The applicant assails order dated 18.05.2017 (Annexure A-1), and has sought reinstatement in service by quashing the impugned order.
4. Heard learned counsel for the parties.
5. Counsel for the Chandigarh Administration sought dismissal of the O.A. for want of alternative remedy of appeal against the impugned order, which the applicant has not availed being an efficacious remedy, which is a pre-requisite before one can invoke the jurisdiction of this Court U/s 19 of the Administrative Tribunals Act, 1985.
6. Sh. R.S. Khosla, Sr. Advocate, counsel for the applicant submitted that though the remedy of appeal is there but considering the fact that Secretary Transport, who is appellate authority in this case also happens to be Chairman of the Committee constituted to implement the judgment in the case of Iqbal Singh vs. Secretary Transport and others (CWP No.11790 of 2016) and Rishi Dev vs. State of Haryana & Ors. (CWP No.4093 of 2004) and decided to dismiss services of those drivers who have been convicted by Court of law, therefore,

the applicant is not likely to justice because the person who is heading that committee has already formed an opinion to terminate service of drivers, convicted for rash driving. Therefore, he prayed that this petition be heard on merits.

7. We have given our thoughtful consideration to entire matter.
8. We are of the view that plea raised by the respondents cannot be easily ruled out that the applicants cannot approach this Court directly by ignoring the alternative and efficacious remedy, but at the same time, we find that the impugned order dated 18.05.2017, passed by the Director Transport, is without considering the fact that the applicant was reinstated in service, after he was convicted in a criminal case way back in 1989. He was served with a show-cause notice in the year 2016 without realizing the fact that he has continued for long 27 years with the department. Without application of mind, the respondents have passed impugned order, while implementing judgment in case of Iqbal Singh (supra) and Rishi Dev (supra). They have not bothered to consider the fact that when he continue to serve department for 27 years then how he is unfit for the job and there is no whisper in the impugned order that his work, conduct and driving was not good or up to the mark before passing the order of dismissal. This aspect of the matter has to be considered by the respondents, before termination of services.
9. Accordingly, the O.As. are disposed of with a direction to the applicants to file an appeal along with application for condonation of

delay within 15 days from today. On receipt of such appeal, the respondents are directed to decide the points raised therein by the applicants by passing a reasoned and speaking order within a period of two months thereafter. While considering the same, the respondents will not dismiss the appeal on the ground of delay.

10. The O.As stand disposed of in the above terms.

(AJANTA DAYALAN)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 01.10.2018.
Place: Chandigarh.

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