

Dharam Chand vs Delhi Transport Corporation on 2 March, 2022

Author: Rajiv Shakdher

Bench: Rajiv Shakdher, Jasmeet Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 3602/2022 & CM No.10597/2022
DHARAM CHAND

Through

Mr Hari Kishan, Adv

versus

DELHI TRANSPORT CORPORATION

.....Respondent

Through Mr Sarfaraz Khan, Advocate.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE JASMEET SINGH

ORDER

% 02.03.2022 [Physical Court Hearing/Hybrid Hearing (as per request) CM No.10598/2022

1. Allowed, subject to just exceptions.

W.P.(C) 3602/2022 & CM No.10597/2022[Application filed on behalf of the petitioner for interim relief]

2. This writ petition is directed against the order dated 15.02.2022, passed by the Central Administrative Tribunal (in short, "the Tribunal") in OA No.334/2022.

2.1. The petitioner had approached the Tribunal for quashing the show cause notice dated 31.01.2022, issued by the Regional Manager, Delhi Transport Corporation, North Region, Subhash Place Depot, Delhi, 110035 [hereafter referred to as "RM"].

3. According to Mr Hari Kishan, the RM did not have the jurisdiction to issue the impugned show cause notice dated 31.01.2022, broadly, for the following three reasons :

(i) First, that the Office Order No.25 which is adverted to in the aforementioned show cause notice, does not confer any authority on the RM to issue the said notice.

(ii) Second, via the show cause notice dated 31.01.2022, the RM has suo-

motu exercised the power of review, after the penalty of "Recovery of Rs. 2000/- from the next salary of the conductor" had been imposed by the disciplinary authority on the petitioner and acted upon.

(iii) Third, that the order of review dated 23.07.2021, issued by the Depot Manager (DM), Subhash Place Depot, whereby the punishment imposed by the disciplinary authority was set aside, was passed without hearing the petitioner.

3.1. The record shows that the petitioner was employed as a Conductor with the respondent, albeit on contractual basis. The allegation against the petitioner was that, the petitioner misused the Electronic Ticket Machine (ETM) and withdrew 2 tickets of zero value, whereas the actual value of said tickets was Rs.30/- and thus caused financial loss to the respondent. 3.2. It is in this connection that a penalty of Rs.2000/- was imposed on the petitioner. We are informed that Rs.2000/- has been recovered from the salary of the petitioner.

4. To be noted, the Tribunal has disposed of the petitioner's O.A. [i.e., O.A. No.334/2021] simply on the ground that it is premature, as the impugned show cause notice dated 31.01.2022 has not been acted upon.

4.1. What is not in dispute is that the petitioner has filed an application dated 05.02.2022 with the RM, for being supplied with certain documents, to enable him furnish an appropriate reply to the show cause notice dated 31.01.2022.

4.2. The petitioner has, possibly, not yet filed a reply to the impugned show cause notice as he awaits the outcome of his aforementioned application.

5. Mr Sarfaraz Khan, who appears for the respondent, says that he will revert with instructions as to whether necessary powers are vested in the RM.

6. Accordingly, issue notice. Mr Khan accepts notice on behalf of the respondent.

6.1. In case instructions are received to resist the petition, counter-affidavit will be filed by the respondent before the next date of hearing.

7. List the matter on 22.03.2022.

RAJIV SHAKDHER, J JASMEET SINGH, J MARCH 2, 2022/rb Click here to check corrigendum, if any