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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4253/2017

DELHI TRANSPORT CORPORATION Petitioner

Through: Ms.Manisha Tyagi and Mr.Harsh
Chaudhary, Advocates

versus

CHET RAM Respondent

Through: Ms.Urvi Mohan, Advocate

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER
18.01.2024

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CM APPL. 31910/2019 (Additional Documents)

1. The instant application under Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of applicant seeking the following reliefs:-

“(a) Allow the petitioner to file and place on record these additional documents i.e. letter dated 29.10.2008 and 13.3.2013 in the present writ petition.

(b) Pass such other or further orders as this Hon'ble Court deems fit and proper in the facts and circumstances of the case and in the interest of justice.”

2. Learned counsel appearing on behalf of applicant/petitioner submitted that the instant application may be allowed as certain documents are required to be placed on record for proper adjudication of the instant matter.

3. It is submitted that the first document which the petitioner seeks to be

placed on record states that at the initial stage, i.e., on 29th October 2008, the respondent was found suffering from DDV and DNV however, the documents stating about the said defect were not placed before the learned Central Administrative Tribunal. Moreover, the second document which the petitioner seeks to place on record, states that the respondent was declared medically fit by the Guru Nanak Hospital, and he was directed to go for re-examination by an Independent Medical Board for Medical Checkup.

4. It is contended that the impugned judgment was passed by the learned Tribunal without considering the relevant documents which the petitioner seeks to place on record of this Court, as the respondent herein was suffering from colour blindness at the time of recruitment itself.

5. During the course of the argument, this Court made specific query regarding how the person suffering from colour blindness at the time of recruitment was appointed as a driver with the petitioner organization. In response to the said query, the learned counsel appearing on behalf of applicant/petitioner submitted that since the respondent had submitted a medical certificate from the Guru Nanak Hospital, declaring him fit, he was appointed on 14th October, 2008 and similarly more than 100 persons who were suffering from colour blindness were appointed due to which, an independent medical board was constituted on 13th April, 2013.

6. Learned counsel for the applicant/petitioner also brought to the notice of this Court that the respondent was terminated on 3rd January, 2011, due to an accident causing 30% disability.

7. Heard.

8. After considering the arguments advanced by learned counsel for the applicant/petitioner, it is evident that the department has appointed the

respondent, who was unfit for the position of a driver as he was suffering from colour blindness, merely on the basis of the medical certificate issued by the Guru Nanak Hospital, which was submitted to the recruitment authority. This Court is of the opinion that for the petitioner to rely upon the medical certificate submitted by the respondent is a wrongful action on the part of the petitioner as the said medical certificate is contrary to the medical test certificate issued by the petitioner's own medical department. It is a very appalling situation that the respondent was appointed as driver with the petitioner department as well as allowed to drive the buses of the petitioner department since his appointment in the year 2008 till 2011 i.e. for 3 years.

9. The petitioner department has unfortunately not taken into account whether the respondent is medically fit for the position for which he was employed for and did not even take any action against the respondent and other 100 persons who were appointed on the basis of the report of the Guru Nanak Eye Centre. It is very disheartening for this Court to witness such negligence on the part of the petitioner department in appointing its driver.

10. This Court observes that it is a sorry state of affairs that the petitioner woke up only in the year 2013, from its deep slumber and finally constituted an independent medical board on 13th April, 2013 for examination of the medical fitness of the respondent.

11. Keeping in view the aforesaid observations, this Court is of the view that the matter is extremely serious in nature since it involves an issue of public safety. The petitioner authority should have acted with due care and caution in ensuring that its driver is fit in all aspects to be appointed to the said position. Hence, this Court wants to now apprise itself of the fact to why and under what circumstances, the petitioner department had appointed

the respondent without considering the public safety since, such actions may cause serious implications to the public safety.

12. Accordingly, it is directed that the Chairperson, Delhi Transport Corporation shall file a personal affidavit, after due investigation, stating therein the details of the officer who is responsible for appointing the person suffering from colour blindness/medically unfit for the position of driver with the petitioner department. It shall also state as to why the additional documents which are appended to the instant application, were not placed before the learned Tribunal at the time of the hearing. Let the compliance be done within four weeks from today.

13. The Registrar General is directed to send a copy of this order to the Chairperson, Delhi Transport Corporation for compliance.

14. List on 22nd March, 2024.

CHANDRA DHARI SINGH, J

JANUARY 18, 2024

dy/db

[Click here to check corrigendum, if any](#)