

Rakesh Kumar Vs. Delhi Transport Corporation Represented By: the Ch

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Court : Delhi

Decided On : Jan-14-2013

Judge : Pradeep Nandrajog

Appellant : Rakesh Kumar

Respondent : Delhi Transport Corporation Represented By: the Ch

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision: January 14, 2013 + W.P.(C) 3274/2012 RAKESH KUMAR Petitioner Represented by: Mr.Pankaj Vivek with Mr.Atul Tripathi, Advs. versus DELHI TRANSPORT CORPORATION REPRESENTED BY: THE CHAIRMAN CUM M.D. AND ORS Respondents Represented by: Mr.Sarfaraz Khan, Adv. for R-1 & R-3. Ms.Sonia Arora, Adv. for R-2. CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE VEENA BIRBAL PRADEEP NANDRAJOG, J.

(Oral) 1. From the pleadings of the parties before the Tribunal it would emerge that the case pleaded by DSSSB was that the candidate named Ashok Kumar s/o Jagbir Singh was issued a Roll No.18714424 and roll number issued to the writ petitioner named Rakesh Kumar s/o Balbir Singh was 18714423. It was further the case of DSSSB that inadvertently the Roll No.18714423 was also allotted against the name of Ashok Kumar in the process of data processing. In other words as per DSSSB, 2 roll numbers got assigned to Ashok Kumar being Roll No.18714423 and 18714424 and that the Roll No.18714423 also got assigned to the writ petitioner.

2. Meaning thereby Ashok Kumar was issued two admit cards pertaining to the two roll numbers and as regards Rakesh Kumar admit card issued pertained only to the Roll No.18714423.

3. The attendance sheet with DSSSB would reveal that Ashok Kumars signatures have been obtained against both roll numbers as also ID No.1005284 and ID No.1005433.

4. The attendance sheet would reveal that Ashok Kumar has signed against both roll numbers but with respect to the roll number assigned to Ashok Kumar i.e. 18714424, using a red pen the word Absent has been written.

5. As per the writ petitioner since the invigilator wrongly took Ashok Kumars signatures against both roll numbers he wrote absent qua one roll number and as regards the writ petitioner, he took his signatures on a separate sheet.

6. The basic question before the Tribunal was whether Rakesh Kumar as also Ashok Kumar took the written examination. For if both had taken the written examination case of DSSSB that Rakesh Kumar never took the written examination would be patently false.

7. The matter being a question of fact required the Tribunal to summon all relevant record to unravel the issue. The first relevant record would but obviously be the answer sheets. Unfortunately, as of today learned counsel for DSSSB informs that the answer sheets have been destroyed. It is unfortunate that this has happened because the Tribunal did not call for the answer sheets. Had the Tribunal done so the process of weeding out would not have been over inasmuch as the cut-off date after which record need not be retained had not come into existence. But the matter still needs to be resolved with reference to the other material which DSSSB should be directed to produce. The same would be the blank answer sheets issued at the Centre in question; the answer sheets consumed and the unused answer sheets returned. The OMR data could also be looked into. Such other material from which it could be ascertained whether even the petitioner took the examination has to be looked into.

8. Accordingly, we dispose of the writ petition quashing the impugned order dated July 12, 2011 dismissing O.A. No.321/2010. The original application is restored for fresh adjudication by the Tribunal and for which the Tribunal would call for all relevant record of DSSSB and take the necessary decision. We would remind the Central Administrative Tribunal that while adjudicating original applications it has the power, under Section 22 of the Act, to summon and enforce the attendance of any persons and examine them on oath; the power to order discovery and production of documents as also to receive evidence.

9. Parties shall appear before the Registrar of the Central Administrative Tribunal on February 11, 2013 who would pass formal orders restoring O.A. No.321/2010 and place the same before the appropriate Bench of the Tribunal for fresh adjudication.

10. Copy of this order be supplied dasti to learned counsel for the parties who have noted the date when they shall appear before the Registrar of the Tribunal. Copy be also sent by Special Messenger to the Registrar of the Tribunal so that he receives the same not later than February 4, 2013.

11. No costs. (PRADEEP NANDRAJOG) JUDGE (VEENA BIRBAL) JUDGE
JANUARY 14 2013//kks//

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