

Dtc Vs. Suresh Kumar

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Court : Delhi

Decided On : Mar-04-2013

Judge : Pradeep Nandrajog

Appellant : Dtc

Respondent : Suresh Kumar

Judgement :

\$~5 * IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of decision: March 04, 2013 + W.P.(C) 1489/2011 DTC Petitioner Represented by: Mr.Anand Nanda, Advocate. versus SURESH KUMAR Respondent Represented by: Mr.Kishore Kumar Patel, Advocate. CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE PRATIBHA RANI PRADEEP NANDRAJOG, J.

(ORAL) 1. Heard learned counsel for the parties.

2. It is settled law that, howsoever brief it may be, the order passed by a disciplinary authority must deal with the contentions raised by a delinquent employee with respect to the report of the Inquiry Officer.

3. We clarify.

4. If stand taken by a delinquent employee with reference to the evidence led is considered by the Inquiry Officer, and with reasons dealt with, it would be permissible for the disciplinary authority to record that it is agreeing with the

reasoning of the Inquiry Officer. In said situation, the disciplinary authority need not list one by one all the contentions urged and thereafter list, one by one, the manner in which the Inquiry Officer has dealt with the matter.

5. But, where the Inquiry Officer has just not dealt with a contention urged, it would be the duty of the disciplinary authority to take note of the said contention and deal with the same. The reason is obvious. A contention not dealt with by the Inquiry Officer would have no reasons reflected in the report of the Inquiry Officer as to why the contention does not merit an acceptance. This exercise would be conducted by the disciplinary authority.

6. With the aforesaid statement pertaining to the legal position being clear, as we understand it to be, relevant fact would be that the respondent was the driver of a DTC bus bearing not DEP-9960 which was involved with an accident. The other vehicle was a two wheeler scooter bearing not DL5SC-7180. The driver of the scooter unfortunately lost his life.

7. The respondent repeatedly pointed out to the disciplinary authority that it was the driver of the scooter who was rash and negligent in causing the accident evidenced by the fact that the accident marks were on the rear panel of the bus which showed that it was the driver of the scooter who, while driving the scooter at a high speed, struck the bus at the rear of the bus.

8. This factual aspect of the matter finds no mention in the report of the Inquiry Officer. It was thus expected that the disciplinary authority would have noted and dealt with the same.

9. We may note that at the criminal trial the respondent earned acquittal for the offences punishable under Section 279/337/305 IPC in view of the aforesaid evidence. The Mechanical Inspector of the scooter and the bus, who appeared as PW-4, clearly brought out that it was the scooter which had rammed into the rear of the bus. Under the circumstances, it was not sufficient for the disciplinary authority to simply record that all contentions have been noted and dealt with by the Inquiry officer. The contention pertaining to the scooter hitting on the rear of the bus has just not been dealt with by the Inquiry Officer. We agree with the view

taken by the Tribunal on the facts and circumstances of the instant case that it was the duty of the disciplinary authority to deal with this submission urged by the respondent 10. We note that the impugned order simply sets aside the non-speaking penalty order and has remanded the matter back to the disciplinary authority to re-examine the evidence.

11. Indeed, in view of the evidence and the acquittal earned by the respondent at the criminal trial it would be the duty of the disciplinary authority to note the effect of the fact that it was the scooter which hit the bus from the rear resulting in the death of the driver of the scooter.

12. The writ petition is accordingly dismissed but without there being any order as to costs. (PRADEEP NANDRAJOG) JUDGE (PRATIBHA RANI) JUDGE MARCH 04 2013//skb//

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