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

Reserved on: 18.11.2025
Pronounced on: 12.12.2025

\+ W.P.(C) 1798/2024
RAMESH KUMAR .....Petitioner
Through: Mr.S. N. Sharma and Mr.Rakesh Kumar, Advs.

versus

DELHI TRANSPORT CORPORATION .....Respondent
Through: Mr.Nitesh Kumar Singh, Adv. for Mrs.Avnish Ahlawat, SC

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed, challenging the Order dated 30.10.2023 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No.140/2020, titled ***Sh. Ramesh Kumar v. Delhi Transport Corporation***, dismissing the said O.A. filed by the petitioner herein.

2. The petitioner had filed the above O.A. challenging the Order dated 14.03.2019 passed by the respondent, whereby the respondent retired the petitioner from its services with effect from 31.03.2014.

3. It was the claim of the petitioner before the Tribunal that as he had worked and performed his duties till 30.08.2018, whereafter the respondent had stopped giving him any duty, despite an *interim* order in his favour, passed by the learned Tribunal in O.A. No.829/2014, which had been filed by him seeking to restrain the respondent from retiring him at the age of 55 years and seeking directions to continue his service till he attains the age of 60 years, therefore, his date of superannuation should be considered as 30.08.2018.

4. This plea of the petitioner was rejected by the learned Tribunal in the Impugned Order, by observing as under:

> *"6. I have gone through the records of the case thoroughly and heard the arguments carefully. In the instant case, the applicant remained in service because of the Interim order granted by this Tribunal vide order dated 21.01.2019 in OA No.829/2014. I do not agree with the contention of the learned counsel for the applicant that the judgment of the Apex Court in Jahan Singh's case (Supra) is applicable in the instant case. Here, it is not the case that the applicant was retired retrospectively on a particular date by the respondents on their own volition. When the aforementioned OA was dismissed, it implies that the relief sought by the applicant for remaining in service beyond the age of 55 years was declined. Accordingly his effective date of retirement remained as 55 years as the applicant was found medically unfit to remain in service as a Driver on the basis of the Medical Board declaring him unfit vide their report dated 27.3.2014. In view of this, the ratio of the judgment in the Jahan Singh's case (supra) is not applicable in the instant case.*

> *6.1 On the other hand, the ratio of judgment of the Hon'ble Delhi High Court in Dharam Pal's case (supra) is squarely applicable in the instant case. The facts and circumstance of the said case is the exactly the same as obtaining in the present case. The Hon'ble Delhi High Court has held that after attaining the age of 55 years the Drivers are not entitled to remain in service unless they are declared fit by the Medical Board. Hence the order dated 14.03.2019 retiring the applicant when he attained the age of 55 years i.e. on 31.03.2014, is legitimate. The said order does not suffer on account of any illegality or arbitrariness."*

5. To appreciate the above finding of the learned Tribunal, a few facts deserve notice of this Court.

6. The petitioner was appointed as a Driver with the respondent in January, 1983. He developed some defect in his eyesight in the year 1986, and the Medical Board of the respondent declared him as medically unfit to perform his duties *vide* Letter dated 20.01.1992, whereafter, *vide* Letter dated 01.05.1996, he was prematurely retired from service. Aggrieved thereby, the petitioner raised an Industrial Dispute and the learned Labour Court, Delhi, *vide* Award dated 17.05.1999, held the petitioner's premature retirement from service to be illegal and the respondent was ordered to reinstate the petitioner in service with all consequential benefits. The said Award was challenged by the respondent before this Court by way of a Writ Petition, being W.P.(C) 5891/1999, which came to be dismissed by this Court *vide* Judgment dated 28.09.1999. The said judgment was challenged by the respondent in an appeal, being LPA No.516/1999,

which also was dismissed on 04.07.2000, with a direction to the respondent herein to offer an alternative employment to the petitioner.

7. Thereafter, the respondent, by an Order dated 27.11.2000, appointed the petitioner to the post of a Peon, and fixed his pay scale as was applicable to the said post, which was lower than the pay scale payable to the post of Driver. The petitioner challenged the same by way of a Writ Petition, being W.P.(C) 1089/2001, claiming that he should be given the same pay scale as was applicable to the post of Driver. The said Writ Petition was allowed by this Court *vide* Judgment dated 24.10.2005, directing the respondent to post the petitioner to a post with the same pay scale and service benefits as applicable to the post of Driver. In compliance with the said order, the respondent appointed the petitioner to the post of Vehicle Examiner, with the same pay scale and service benefits as applicable to the post of Driver. Thereafter, in the year 2008, the petitioner was re-designated as a Security Guard, with the same pay scale and service benefits as applicable to the post of Driver.

8. By a Letter dated 03.03.2014 of the respondent, the petitioner was informed that he was going to attain the age of 55 years on 25.03.2014, and that he would have to undergo a medical fitness test for his further continuation in service. It was further stated that in case he is found medically unfit, he would be retired from service. The petitioner challenged the said order before the learned Tribunal by filing O.A. No.829/2014, wherein the learned Tribunal, by an *interim* Order dated 28.03.2014, restrained the respondent from retiring the

petitioner from service. The said O.A., however, eventually came to be dismissed by the learned Tribunal *vide* Order dated 21.01.2019. A Contempt Petition, being C.P. No. 613/2018, filed against the non-compliance of the *interim* Order dated 28.03.2014 passed in O.A. No.829/2014, was also dismissed by the learned Tribunal on 21.01.2019.

9. The said final order dated 21.01.2019 of the learned Tribunal in O.A. No.829/2014 has now attained finality, and it was based thereon that the respondent, *vide* the Retirement Memo dated 14.03.2019, which was impugned before the learned Tribunal in O.A. No.140/2020, deemed the petitioner to have retired from service on attaining the age of 55 years with effect from 31.03.2014.

10. As noted hereinabove, the said order was challenged by the petitioner before the learned Tribunal, which challenge has been dismissed by the learned Tribunal by way of the Impugned Order.

11. The learned counsel for the petitioner submits that the learned Tribunal has failed to appreciate that the petitioner was performing his duties as a Security Guard and, therefore, could not have been put to a medical fitness test for the further continuation of service on attaining the age of 55 years, which provision was applicable only to the Drivers employed with the respondent. He further submits that the petitioner, in any case, discharged his duties till 30.08.2018 and, therefore, his retirement should be from the said date.

12. On the other hand, the learned counsel for the respondent submits that the learned Tribunal has already dismissed the previous

O.A., being O.A. No.829/2014, filed by the petitioner seeking continuation in service beyond the age of 55 years. He submits that the said order has now attained finality and was not challenged by the petitioner. He submits that, therefore, the petitioner cannot be allowed to now re-agitate the same issue in the present petition.

13. He further submits that the continuation of service of the petitioner till 30.08.2018, was only due to an *interim* order passed by the learned Tribunal in O.A. No.829/2014, and on dismissal of the said O.A., the benefit of such service cannot accrue to the petitioner.

14. We have considered the submissions made by the learned counsels for the parties.

15. From the above narration of facts and submissions of the learned counsels for the parties, it is evident that the only issue to be determined by this Court is whether the petitioner is deemed to have superannuated on 31.03.2014, that is, upon attaining the age of 55 years, or whether he is deemed to have superannuated on 30.08.2018, that is, the date till when he claims to have discharged his duties and post which he claims the respondent stopped assigning him any work.

16. The entire case of the petitioner is based on his submission that as he was appointed as a Security Guard after being declared medically unfit for the post of Driver, to which he was initially appointed, he would not superannuate on 31.03.2014, that is, upon attaining the age of 55 years. The said issue, in our opinion, however, stood settled by the Order dated 21.01.2019 passed by the learned

Tribunal in O.A. No.829/2014, when it dismissed the said O.A., holding as under:

> *"9. In the present case, the petitioner contracted disability in 6.12.1996 while working as a driver. Thereafter, in view of the provisions contained under Section 47 of the Disability Act, he was appointed, by virtue of aforesaid Order of the Hon'ble High Court, to work as Vehicle Examiner and thereafter re-designated as Security Guard. Merely because he was retained in service and was asked to perform duties as that of Vehicle Examiner and thereafter as Security Guard which posts have the retirement age as 60 years, the applicant cannot claim as a matter of right to superannuate at the age of 60 years. The counsel for the applicant has not been able to show my illegality and irregularity in the impugned order and as such this Tribunal is not inclined to interfere with the impugned order.*
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> *10. In view of the above facts and circumstance of the case and for the reasons stated above, we do not find any merit in the instant OA and the same is accordingly dismissed. There shall be no order as to costs."*

17. The said order has now attained finality, as it was not challenged by the petitioner. The petitioner, therefore, cannot now claim that as he was working as a Security Guard, for which post the age of superannuation is 60 years, he shall superannuate only at that age.

18. The only issue to be determined by this Court is whether the petitioner can avail the extension of his service based on the *Interim* Order dated 28.03.2014 passed in O.A. No.829/2014.

19. The legal position on the effect of *interim* orders after dismissal of the main proceedings, is well-settled by the Supreme Court. In ***State of U.P. & Ors. v. Prem Chopra***, (2024) 12 SCC 426, the Supreme Court held that once the proceedings, wherein an *interim* order was granted, are dismissed, any *interim* order granted earlier merges with the final order and comes to an end with the dismissal of the proceedings and the parties are relegated back to the same position they would have been but for the interim order of the Court, unless the order granting interim stay or final order dismissing the petition specifies otherwise. The relevant quotation from the judgment is as under:

> ***"24.*** *From the above discussion, it is clear that imposition of a stay on the operation of an order means that the order which has been stayed would not be operative from the date of passing of the stay order. However, it does not mean that the stayed order is wiped out from the existence, unless it is quashed. Once the proceedings, wherein a stay was granted, are dismissed, any interim order granted earlier merges with the final order. In other words, the interim order comes to an end with the dismissal of the proceedings. In such a situation, it is the duty of the court to put the parties in the same position they would have been but for the interim order of the court, unless the order granting interim stay or final order dismissing the proceedings specifies otherwise. ..."*

20. Similarly, in ***Jagpal Singh v. State of U.P. & Ors.***, (2023) 14 SCC 727, the Supreme Court, in a case where the petitioner therein had challenged the termination of his services, but on the basis of an

interim order was allowed to continue in service and was also promoted, held that any promotion or benefit given to the petitioner consequent to his continuance in service on the strength of the *interim* order, would automatically fall to the ground once the appeal against the termination of service was dismissed and the termination order attained finality. The relevant portion is reproduced as under:

> ***12.*** *The facts, as narrated above, clearly establish that the petitioner was appointed simply as a temporary Collection Peon and his services were determined simpliciter within three years vide order dated 30-11-1998. The said order, terminating the services of the petitioner, is final and conclusive. It has not been disturbed by any court of law. However, the petitioner continued to function as temporary Collection Peon on the strength of an interim order passed in special appeal which was ultimately dismissed. Therefore, any promotion given to the petitioner consequent to his continuance in service on the strength of the interim order would automatically fall to the ground once the special leave petition is dismissed and the termination order attains finality.*
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> ***13.*** *In view of the aforesaid facts and circumstances, we are of the opinion that the view expressed by the Division Bench of the High Court in allowing the appeal, is well within the four corners of law which order does not suffer from any material illegality or irregularity. The Division Bench has rightly set aside the judgment and order of the learned Single Judge dated 31-10-2012 by which the writ petition was allowed in complete ignorance of the fact that the services of the petitioner stood determined long back and that the petitioner is not entitled to any benefit on the basis of his subsequent*

> *promotion which automatically falls with the termination attaining finality. Accordingly, we find no merit in the special leave petition and the same is dismissed, however, the respondents shall not initiate any recovery of the salary drawn by the petitioner for the period he has actually worked.*

21. In view of the above, once the O.A. No.829/2014, itself stood dismissed by the Order dated 21.01.2019, which order attained finality, no special benefit could have accrued to the petitioner basis the *interim* order passed therein.

22. Accordingly, we find no merit in the present petition. The same is dismissed. However, we make it clear that the petitioner would be entitled to his salary and other allowances, in accordance with the law, for the period that he actually worked for the respondent, even if it was because of the *interim* order passed by the learned Tribunal. No recovery of any such salary/allowances already paid to the petitioner, shall be made by the respondent.

23. There shall be no order as to costs.

NAVIN CHAWLA, J.

MADHU JAIN, J.

DECEMBER 12, 2025/ns/SJ