

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

% **Date of decision: 26<sup>th</sup> March, 2021**

+ **LPA 134/2021**

**BAIJU G.**

**..... Appellant**

Through: Mr. Shivendra Singh, Adv.

Versus

**DELHI TOURISM AND TRANSPORTATION  
DEVELOPMENT CORPORATION LIMITED  
& ANR**

**..... Respondents**

Through: Ms. Anisha Upadhyay, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**HON'BLE MR. JUSTICE AMIT BANSAL**

**RAJIV SAHAI ENDLAW, J.**

**CM No.12231/2021 (for exemption)**

1. Allowed, subject to just exceptions and as per extant Rules.
2. The application is disposed of.

**LPA 134/2021 & CM No. 12230/2021 (for ad-interim ex-parte stay)**

3. This intra court appeal impugns the order dated 15<sup>th</sup> March, 2021 disposing of W.P.(C) No.3328/2021 preferred by the appellant impugning the revival of inquiry in a disciplinary proceeding against the appellant and impugning the orders dated 1<sup>st</sup> February, 2021 and 15<sup>th</sup> February, 2021 of the Inquiry Authority.

4. The Single Judge, in the impugned order has found/observed/reasoned, that (i) the appellant was working as a Junior

Driver in the respondent no.1 Delhi Tourism and Transportation Development Corporation Limited (DTTDC); (ii) departmental proceedings were initiated against the appellant in terms of Memorandum dated 26<sup>th</sup> May, 2017 and one Mr. Anudeep Bedi, Assistant Manager, appointed as the Inquiry Officer; (iii) the Inquiry Officer concluded the inquiry proceedings and reserved report therein on 11<sup>th</sup> June, 2019; (iv) the Inquiry Officer submitted his report to the Disciplinary Authority, which on consideration of the same found an infirmity in the conduct of the inquiry since the Inquiry Officer had not considered the view of the witnesses / complainant as well as the deposition of the witnesses who deposed in the inquiry and deemed it appropriate to appoint another Inquiry Officer and passed an order dated 24<sup>th</sup> November, 2020, in exercise of powers under Rule 15 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 [CCS(CCA) Rules], remitting the matter to the Inquiry Officer; (v) on 12<sup>th</sup> February, 2021 the appellant was informed that Sh. Ajit Srivastava, retired IAS officer had been appointed as the Inquiring Authority and the inquiry was next scheduled on 15<sup>th</sup> February, 2021; and, (vi) on 15<sup>th</sup> February, 2021, the new Inquiry Officer posted the matter to 17<sup>th</sup> March, 2021.

5. Observing / recording as aforesaid, the Single Judge has disposed of the writ petition preferred by the appellant, finding no error in the decision of the Disciplinary Authority to remit the inquiry to another Inquiry Officer but directing the new Inquiry Officer to submit the report within six months.

6. The counsel for the appellant, before us has contended that law does not permit substitution of the Inquiry Officer and the impugned judgment of

the Single Judge is contrary to the binding dicta of the Division Bench in ***Union of India Vs. S.K. Verma*** 2018 SCC OnLine Del. 7760.

7. However a perusal of the said judgment, particularly paragraphs 14 and 16 to which attention is drawn, does not show the same as laying down any such absolute proposition. In the facts of that case, the Division Bench observed that no reasons had been given for substitution of the Inquiry Officer and in the absence thereof the Inquiry Officer could not be substituted.

8. The counsel for the appellant then contends that no reason exists in the present case also.

9. However perusal of the order dated 24<sup>th</sup> November, 2020 of the Disciplinary Authority in the present case shows the Disciplinary Authority to have reasoned, that (i) the conduct of the inquiry by the earlier Inquiry Officer was not satisfactory because the Inquiry Officer had not considered the confirmation of witnesses / complainant as well as the depositions of all the witnesses who deposed against the integrity and conduct of the petitioner; and, (ii) the petitioner, as per the said statements / depositions, tarnished the goodwill and image of Delhi Tourism, by misbehaving with an international tourist including lady and thus the inquiry needed to be remitted to a new Inquiry Authority.

10. The Division Bench, in ***S.K. Verma*** supra has relied on ***K.R. Deb Vs. Collector, Central Excise, Shillong*** (1971) 2 SCC 102, to hold that the Disciplinary Authority, though can hold a further inquiry but not a *de novo* inquiry. The counsel for the petitioner then contends that the Disciplinary

Authority, vide order dated 24<sup>th</sup> November, 2020, has ordered inquiry afresh and which is not permissible.

11. The counsel for the respondents draws our attention to the last paragraph of the order dated 24<sup>th</sup> November, 2020, where the direction is for inquiry under Rule 14(2) read with sub-rule (22) of the CCS(CCA) Rules and which provide for further inquiry and not fresh inquiry. It is stated that the new Inquiry Officer is not proceeding afresh and the proceedings of the earlier inquiry would constitute a part of the Inquiry Report by the new Inquiry Officer. It is also contended that the appellant, in this appeal is attempting to expand the scope of the matter beyond that in the writ petition.

12. No merit is found in the appeal.

Dismissed.

**RAJIV SAHAI ENDLAW, J**

**AMIT BANSAL, J**

**MARCH 26, 2021**

‘gsr’..

*(corrected & released on 5<sup>th</sup> April, 2021)*