



\$~22 (2021)

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

+ **LPA 426/2021**

SARVESH ARORA Appellant

Through: Mr. Setu Niket, Advocate.

versus

DELHI TRANSCO LIMITED Respondent

Through: Mrs. Avnish Ahlawat, Standing
Counsel with Mr. Nitesh Kumar
Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% **11.11.2021**

[Court hearing convened *via* video-conferencing on account of COVID-19]

CM APPL. 39757/2021

1. Allowed, subject to just exceptions.

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2. Mr. Setu Niket, who appears on behalf of the appellant, says that, he will return with instructions, as to whether the appellant was undergoing treatment for depression, which is the reason furnished by Mr. Niket, for the appellant's unauthorized absence from duty.

3. We may indicate that, insofar as this appeal is concerned, Mr. Niket has limited the challenge to the impugned judgement to two principal grounds.

3.1. First, that the chargesheet was issued by an officer who was not competent to do so.

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3.2. Second, that the order passed by the reviewing authority, is not a speaking order.

4. To be noted, the chargesheet dated 17.02.2017 was issued by one Mr. J.P.S. Chawla, Director (Finance). It appears that, at the relevant point in time, a regular appointee in the post of Director (HR) was not available, and therefore, the said person was asked to "look-after" the duties of a regular Director (HR).

4.1. In this regard, our attention has been drawn to page 93 of the case file.

5. Insofar as the second ground of challenge is concerned, our attention has been drawn by Mr. Niket to page 56 of the case file. This is a communication dated 03.02.2021, whereby the decision of the Board of Directors of Delhi Transco Ltd. i.e., the respondent, has been communicated to the appellant.

6. Mrs. Avnish Ahlawat, who appears on advance notice on behalf of the respondent, informs us that notwithstanding the position that the review petition was not maintainable, since the appellant had not preferred an appeal, the Board of Directors entertained the review petition and dealt with the same, based on the material already on record.

6.1. Mrs. Ahlawat states that, after considering the material on record, the review petition was dismissed and the decision taken was communicated to the appellant, *via* communication dated 03.02.2021.

6.2. Insofar as the authority of Mr. J.P.S. Chawla, Director (Finance) is concerned, Mrs. Ahlawat says that, he was empowered to issue the chargesheet; since, at the relevant point in time, he was looking after the portfolio of Director (HR).



6.3. Furthermore, Mrs. Ahlawat says that, the final order of removal from service dated 10.05.2018, was passed by the regular Director (HR) i.e., Mr. Mukesh Prasad.

7. It would be relevant to note that, the record has revealed that the appellant, prior to submitting the review petition, did not, at any stage of the inquiry proceedings, raise an objection—as to the competency of Mr. J.P.S. Chawla to issue a chargesheet.

7.1. As a matter of fact, the appellant chose not to participate in the inquiry proceedings.

7.2. Furthermore, after the inquiry report was submitted, the appellant, for reasons best known to him, did not file a reply *qua* the same, although an opportunity was given to him, in that behalf. [See page 66 of the case file.]

8. However, in view of what has been communicated to us by Mr. Niket, the matter is stood over, till the next date of hearing.

8.1. On the next date, Mr. Niket will revert with instructions, on the aspect alluded to hereinabove.

9. List the matter on 18.11.2021.

RAJIV SHAKDHER, J

TALWANT SINGH, J

NOVEMBER 11, 2021

tr

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

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