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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5818/2025**
DELHI TRANSPORT CORPORATION AND ANR

.....Petitioners

Through: Mr. Rikky Gupta, Standing
Counsel, Ms. Ananya Singh,
Adv

versus

SH ROHTASH KUMARRespondent
Through: Nemo

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

% **ORDER**
02.05.2025

CM APPL. 26599/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 5818/2025 & CM APPL. 26598/2025

2. This petition has been filed by the petitioner, challenging the Order dated 06.11.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 2982/2023 titled ***Rohtash Kumar v. The Chairman-cum-Managing Director & Anr.***, whereby the learned Tribunal allowed the said O.A. filed by the respondent herein and quashed and set aside the Order dated 21.10.2022 passed by the petitioners, and further directed the petitioners to restore the pay of the respondent as it stood before his retirement, along with all



consequential benefits.

3. The learned counsel for the petitioners submits that the pay of the respondent had been incorrectly fixed, which was realized only at the time of his superannuation. The Order dated 21.10.2022, therefore, was passed seeking a recovery of the excess amount paid from the respondent by re-fixing his pay. He submits that the learned Tribunal has erred in setting aside the Order dated 21.10.2022 passed by the petitioners.

4. We herein notice that there would be two aspects to be considered by this Court. The first pertains to the recovery of Rs.77,822/-, which was sought to be made from the respondent by re-fixing his pay; the second being whether the pay of the respondent could be re-fixed for the purpose of determining his pensionary benefits.

5. As far as the recovery is concerned, the same cannot be allowed in view of the Judgment of the Supreme Court in ***State of Punjab and Ors. etc. v. Rafiq Masih (White Washer) etc.***, (2015) 4 SCC 334. Therefore, the direction of the learned Tribunal, insofar as it restrained the petitioners from making any recovery from the respondent, cannot be faulted.

6. As far as the future pensionary benefits are concerned, though the petitioners are alleging that they re-fixed the pay of the respondent, however, admittedly, the same was done without issuing a Show Cause Notice to the respondent.

7. Be that as it may, *prima facie*, we are of the opinion that the learned Tribunal, while setting aside the Impugned Order dated



21.10.2022, could have granted an opportunity to the petitioners to issue a Show Cause Notice to the respondent and thereafter determine whether the pay of the respondent ought to be re-fixed at least for the benefits payable in future.

8. The learned counsel for the petitioners submits that on the facts of the case, the petitioners were fully justified in revising the pay of the respondent and that such revision should at least be permitted for the purpose of determining his future entitlements.

9. This aspect can be considered only after the respondent enters an appearance in the present petition.

10. Accordingly, issue notice to the respondent, to be served through all permissible modes, including through the counsel who represented the respondent before the learned Tribunal, returnable on 15th October, 2025.

11. Any amount hereinafter paid by the petitioners towards future pensionary benefits, in excess of the respondents entitlement, shall be subject to the outcome of the present petition and, if so directed, will be liable to be refunded/adjusted by the respondent.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MAY 2, 2025/Arya/DG

Click here to check corrigendum, if any