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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 7897/2012

GOVT.OF NCT OF DELHI & ORS.

..... Petitioners

Represented by: Ms.Avnish Ahlawat, Advocate with
Ms.Tania Ahlawat, Advocate

versus

RANJAN SHARMA

..... Respondent

Represented by: None

W.P.(C) 1839/2013

GOVT.OF NCT OF DELHI & ORS.

..... Petitioners

Represented by: Ms.Avnish Ahlawat, Advocate with
Ms.Tania Ahlawat, Advocate

versus

RANJAN SHARMA

..... Respondent

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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02.08.2013

1. We note at the outset that in spite of being served the respondent has chosen not to appear in spite of the matter being passed over once and called out for the second time.

2. We also note that pursuant to a charge sheet issued on February 18, 2011 pertaining to the misdemeanour of provoking staff members and

inciting them to disobey orders passed by superiors, not maintaining the

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class registers, inflicting corporal punishment on a student belonging to a scheduled caste and refusing to hand over the charge of examination, the respondent has been inflicted with the penalty of compulsory retirement against which OA No.2057/2012 filed by the respondent before the Central Administrative Tribunal has been dismissed.

3. Thus, relevance of the present proceedings would be that if the impugned order is set aside and should respondent successfully challenges the decision taken by the Tribunal dismissing OA No.2057/2012 the department would fall back on the charge sheet issued to the respondent which is the subject matter of the writ petition. Otherwise if the second penalty imposed against the respondent stands, instant proceedings would be meaningless.

4. On September 25, 2007 a charge sheet was issued to the respondent alleging the misdemeanour of reporting late for duty and leaving before school time, misbehaving with the principal of the school and threatening to beat the principal of the school and used filthy and abusive language.

5. The respondent did not respond to the charge sheet nor did he file a reply thereto and to avoid any technical dispute pertaining to whether the respondent had received the charge sheet or not with the enclosures therewith the charge sheet along with the enclosures was once again served upon the respondent on December 05, 2007 and he responded on December 10, 2007 that he had not received the list of documents and list of witnesses. On being asked to collect the same from the Vigilance Department, the respondent did not do so. The respondent did not send a reply. Sh.Ashok Vishnu, Superintendent-IX was appointed as the Inquiry Officer who was harassed by the respondent inasmuch as he started seeking information personal to the Inquiry Officer by filing frivolous applications under the

Right to Information Act. It appears that Ashok Vishnu was mentally harassed by the respondent that he expressed his inability to conduct the disciplinary proceedings and thus Sh. Shehyad Khan, Superintendent was appointed as the Inquiry Officer who was likewise harassed and even he returned the inquiry file. Finally Sh. Sanjay Chaturvedi, a strong willed person was appointed as an Inquiry Officer and he stood firm against the onslaughts of the respondent and we find from the record that the respondent made frivolous complaints and threatened civil and criminal action against Sanjay Chaturvedi while writing letters dated March 28, 2012, May 16, 2012, June 08, 2012, June 25, 2012 and June 28, 2012. In spite of being served with notices to appear before the Inquiry Officer the respondent did not do so, and we are surprised that in spite thereof vide impugned order dated July 04, 2007 the Tribunal has allowed OA No.91/2012 on the ground of delay.

6. In a mechanical way the Tribunal, without looking into the record, and ignoring how the respondent subverted the inquiry proceedings, has held that the documents were supplied to the respondent after five years. The Tribunal has overlooked the fact that the respondent had adopted a stratagem of contrivance to delay the disciplinary proceedings and even go to the extent of threatening civil and criminal action against the inquiry officer. Regretfully, the Tribunal has closed its ears to the other side of the story.

7. That apart, it is settled law that delay by itself is not sufficient to vitiate a disciplinary proceedings unless prejudice caused due to delay is shown. No such prejudice caused has been shown.

8. Thus, the impugned order dated July 04, 2012 which is challenged in W.P.(C) No.7897/2012 is liable to be set aside.

9. As regards W.P.(C) No.1839/2013 challenge is to an order dated

February 14, 2013 directing the department to comply with the order dated July 04, 2012 under pain of contempt.

10. Since order dated July 04, 2012 is being set aside the order dated February 14, 2013 has of necessity to be quashed.

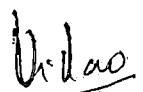
11. The two writ petitions are allowed. Order dated July 04, 2012 allowing OA No.91/2012 is set aside and OA No.91/2012 is dismissed. Order dated February 14, 2013 passed in C.P.No.864/2012 filed in OA No.91/2012 is also quashed and C.P.No.864/2012 is also dismissed.

12. No costs since the respondent has not participated in the present proceedings.

CM No.19821/2012 in W.P.(C) No.7897/2012
CM No.3514/2013 in W.P.(C) No.1839/2013

Dismissed as infructuous.


PRADEEP NANDRAJOG, J.


V. KAMESWAR RAO, J.

AUGUST 02, 2013
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