

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

+ **W.P.(C) No.4465 /2013**

% **17th July, 2013**

SH. DARSHAN SINGH

..... Petitioner

Through: Mr. G.D. Parashar, Advocate.

versus

GOVT. OF NCT OF DELHI

..... Respondent

Through: Ms. Vibha Mahajan Seth, Advocate.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. Petitioner at the time of retirement was an employee of the Government of NCT of Delhi. Subsequent to his retirement he was issued a chargesheet and his terminal benefits were stopped. As per Sections 14 and 19 of the Administrative Tribunals Act, 1985, any disputes of the employees of the Govt. of NCT of Delhi with the Govt. of NCT of Delhi have to be decided by the Central Administrative Tribunal (CAT).

2. Petitioner approached the CAT, argued his case and thereafter withdrew the same unconditionally. The following order was passed by the

CAT in O.A. No.1787/2013 on 28.5.2013:-

“Sh. K.K. Aggarwal, holding brief of Sh. G.D. Parashar, counsel for the applicant seeks leave to withdraw this Original Application. Prayer is allowed. Application stands dismissed as withdrawn.”

3. The aforesaid order dated 28.5.2013 shows that there is unconditional withdrawal of the O.A. before the Tribunal. It is totally unacceptable, and in fact contemptuous, to attribute oral remarks to a Presiding Officer of a Court, as stated in this writ petition which is not found in the order of the Court. The petitioner therefore had a remedy, exhausted that remedy and was unsuccessful in getting the relief. Thereafter, this writ petition has been filed in this Court. This writ petition is therefore wholly misconceived and an abuse of process of law because not only this Court would have any jurisdiction in view of Sections 14 and 19 of the Administrative Tribunals Act, 1985, but also the fact that the petitioner did in fact invoke the correct remedy but was unsuccessful.

4. The present petition is additionally barred on the principles equivalent to Order 23 Rule 1 CPC as the O.A. in CAT was not withdrawn with liberty to file a petition in this Court. Even if principles under Order 23 Rule 1 CPC would not apply and that petitioner would have an entitlement to file a fresh case in spite of order of CAT dated 28.5.2013, then in any case

it cannot be before this Court but only before the CAT.

5. In view of the above, the writ petition is dismissed with costs of Rs.15,000/-. Respondent can recover the costs in accordance with law.

VALMIKI J. MEHTA, J

JULY 17, 2013
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