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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of hearing and order: February 20, 2015.

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W.P.(C) 1545/2015

PRAKASH CHANDRA MISHRA

..... Petitioner

Through: Ms. Jyoti Singh, Senior Advocate
with Ms. Tinu Bajwa, Advocate

versus

GNCT OF DELHI & ORS

..... Respondent

Through: Mr. V.K. Tandon, Advocate

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

HON'BLE MR. JUSTICE I.S. MEHTA

ORDER

20.02.2015

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KAILASH GAMBHIR, J. (Oral)

1. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks to challenge the order dated 17.10.2014 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi in O.A.No. 4464/2013.

2. At the very outset, Mr. V.K. Tandon, Advocate, appearing for the respondents on advance notice raises a preliminary objection to the very maintainability of the present petition on the ground that the petitioner is estopped from challenging the impugned order dated 17.10.2014 as before the learned Tribunal, the petitioner himself had prayed that at least the Tribunal may be pleased to reduce the punishment of dismissal to that of

removal from service as dismissal would debar him from seeking Government service in future. The learned counsel for the respondents has invited attention of the Court to para 7 of the impugned order. The same is reproduced hereunder:-

“Though the applicant has in his OA prayed as above, during arguments, the learned counsel for the applicant prayed that at least the Tribunal may reduce the punishment of dismissal to that of removal from service as dismissal would debar him from seeking Government service in future. In fact, in his appeal to the Joint Commissioner of Police dated 10.06.2013, the applicant had made the following prayer:-

Prayer

It is prayed that your kind Hounour may be pleased to set aside the impugned order (Annexure I) of dismissal of the applicant from service or may be pleased to modify the order of dismissal to removal of service so that appellant may be eligible for seeking Government service in future.”

3. We find merit in the aforesaid objection raised by the learned counsel for the respondents. The learned Tribunal while entertaining the aforesaid relief claimed by the petitioner took a view that normally it would not have interfered with the quantum of punishment but taking into consideration the facts and circumstances of the case and also the fact that the punishment of dismissal may deprive the petitioner, a young man at the threshold of his career, of further chances of recruitment in Government service, the punishment seems to be harsh and therefore it directed the respondents to

reduce the punishment awarded to the petitioner from dismissal to that of removal from service.

4. Having been granted the said relief which was claimed and also pleaded by the petitioner himself during the course of arguments before the learned Central Administrative Tribunal, this Court is of the opinion that the petitioner ought not to have filed the present petition to challenge the impugned order wherein the relief granted by the learned Tribunal was as per the relief claimed by him. Therefore, the present petition filed by the petitioner is highly misconceived and is a gross abuse of process of the Court. Therefore, while dismissing the present petition, this Court is constrained to impose a cost of Rs.20, 000/- on the petitioner to be deposited with Delhi High Court Staff Welfare Fund within a period of four weeks from the date of this order. The spectre of being made liable to pay actual costs should be such as to make every litigant be wary of putting forth a vexatious and flippant litigation.

5. With the aforesaid directions the petition stands disposed of.

KAILASH GAMBHIR, J

I.S. MEHTA, J

FEBRUARY 20, 2015/pkb