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

+ W.P.(C) 7208/2012

% ***Judgment dated 15.09.2015***

GOVT. OF NCT OF DELHI ..... Petitioner  
Through : Mr.Peeyoosh Kalra, ASC for the  
petitioner.

versus

PREM CHAND AND ORS. .... Respondent  
Through : Mr.Prem Chand, respondent no.1 in  
person.

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

**HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL**

**G.S.SISTANI, J (ORAL)**

1. Present writ petition has been filed under Articles 226 and 227 of the Constitution of India, seeking a direction to quash the Order dated 30.3.2012 passed by Central Administrative Tribunal (hereinafter referred to as the "*Tribunal*"), whereby the CAT had refused to remand the matter to the disciplinary authority to hold a fresh enquiry against respondent no.1, Mr.Prem Chand, under Rule 16(1) of the CCS (CCA) Rules, 1965.
2. Respondent no.1, Mr.Prem Chand, had approached the Tribunal impugning the Order dated 18.6.2010 by which the disciplinary authority had imposed upon him the penalty of withholding of increment for a period of one year without cumulative effect. The respondent had also impugned the Order dated 19.11.2010 passed by the appellate authority by which his appeal had been rejected.

3. Mr.Kalra, Additional Standing Counsel for the petitioner, submits that the impugned Order passed by the Tribunal is liable to be set aside as the Tribunal has failed to take into consideration that all the charges stood proved against the respondents. It has also been contended that despite opportunities having been granted to respondent no.1 to defend himself, he failed to do so.
4. We have heard learned Additional Standing Counsel for the petitioner and the respondent no.1, who appears in person. We have also examined the impugned Order dated 30.3.2012 passed by the Tribunal. Principally, the Tribunal has allowed the O.A. on the ground that the petitioners have failed to follow the procedure as laid down in Rule 16(1) of the CCS (CCA) Rules, 1965. The Tribunal, while placing reliance on a decision rendered by the Supreme Court of India in the case of ***Rajinder Kumar Kindra v. Delhi Administration through Secretary (Labour) & Others***, reported at AIR 1984 SC 1805, has also allowed the O.A. on the ground that the findings of the Enquiry Officer are perverse.
5. Although, we find that no grounds are made out to interfere in the impugned order dated 30.3.2012 passed by the Tribunal, however, we are persuaded by the argument of learned Additional Standing Counsel for the petitioner that the matter should in fact be remanded back to the disciplinary authority to hold a fresh enquiry against the respondent under Section 16 (1) of the CCS (CCA) Rules 1965.
6. Accordingly, the matter is remanded back to the disciplinary authority to commence a fresh enquiry against respondent no.1, if considered necessary, after following due process of law.
7. Writ petition stands disposed of in above terms.

**CM APPL. 18573/2012 (STAY)**

8. Application stands dismissed in view of the order passed in the writ petition.

**G.S.SISTANI, J**

**SANGITA DHINGRA SEHGAL, J**

**SEPTEMBER 15, 2015**

msr