

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

+ **W.P.(C) No. 8659/2014 & CM Nos. 19940/14 & 20001/14**

% **22nd January , 2015**

VIVEK PLAWAT

.....Petitioner

Through: Mr. Prateek Tushar Mohanty, Adv.

VERSUS

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Vikram Jetley, CGSC for R-1 &
4.

Mr. Sandeep Sethi, Sr. Adv. with Mr.
Sanjoy Ghose, Adv. for R-2 & 3.

Mr. R.V.Sinha and Mr. A.S.Singh,
Advs. for R-5/CVC.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This writ petition is filed by the petitioner under Articles 226 and 227 of the Constitution of India seeking a writ in the nature of mandamus or any other appropriate writ/direction for directing the respondents to appoint the petitioner to the post of Director (Technical) in the respondent no.2-corporation. The prayer was made because the

petitioner has been placed at serial no.1 in the select list of the respondent no.4 for being appointed as a Director (Technical) of the respondent no.2.

2. The appointments such as in the present case, including of the petitioner to the relevant post with the respondent no.2, are by the Appointment Committee of the Cabinet (ACC). ACC before it gives appointment, the Central Vigilance Commission (CVC) has to give clearance with respect to making the appointment by the ACC.

3. In the writ petition as originally filed the case of the petitioner was that against the petitioner no departmental proceedings have till date been initiated and therefore CVC was directed to give the vigilance clearance.

4. When the writ petition was filed, the matter was under consideration of CVC and CVC/respondent no. 5 has now filed an affidavit that it has, subsequent to the filing of the writ petition, tendered its advice dated 10.12.2014 for initiation of major penalty proceedings against the petitioner. Respondent no.5 vide its letter dated 30.12.2014 has therefore advised denial of vigilance clearance to the petitioner for being appointed to the post of Director (Technical) of the respondent no.2.

5. Respondent no.2/employer has therefore now initiated departmental proceedings against the petitioner and petitioner has been issued a charge-sheet dated 23.12.2014 for misconduct with respect to major penalty proceedings.

6. In this view of the matter, no reliefs can be granted in the writ petition inasmuch as, firstly this Court is not the appointing authority and which is the ACC. Secondly, ACC itself cannot grant appointment to the petitioner in this case because CVC has denied vigilance clearance to the petitioner and has in fact directed initiation of departmental proceedings for major penalty against the petitioner.

7. There is no challenge in these proceedings to the orders passed by the CVC denying vigilance clearance qua the petitioner and also for initiating departmental proceedings or to the action of the respondent no.2 in major penalty proceedings by issuing the charge-sheet dated 23.12.2014 unless these orders of respondent no.5 are prayed for being quashed and till they are quashed the petitioner cannot be granted/seek appointment as ACC will not appoint the petitioner in the absence of vigilance clearance. Petitioner may also, if so required, have to challenge the departmental proceedings.

8. In view of the above, no relief as prayed, can be granted to the petitioner. Dismissed.

JANUARY 22, 2015
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VALMIKI J. MEHTA, J.