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

+ W.P.(C) 5832 /2015

% *Judgment dated 7th August, 2015*

CHAIRMAN & MANAGING DIRECTOR, BHARAT SANCHAR
NIGAM LIMITED & ORS. Petitioners

Through Mr. Suryakant Singla with Mr. Shyam
Bhatnagar, Advocates.

versus

RAJ RANI CHOUDHARY Respondent

Through Ms. Meenu Mainee, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Aggrieved by the orders of the Central Administrative Tribunal (hereinafter referred to "CAT") passed on 20.08.2014 has led to the filing of the present writ petition. The main grievance of the counsel for the petitioners (respondent before the CAT) was that the order dated 20.08.2014 was passed without hearing the respondents.
2. Counsel for the petitioners submits that order dated 20.08.2014 shows that the case was listed on 25.07.2014 and parties were heard whereas no date was fixed for 25.07.2014, neither order sheet of 25.07.2014 is available on record. It is submitted that in fact, when the matter was listed on 27.05.2014, it was adjourned to 30.07.2014.
3. On 29.05.2015, the original record of the CAT was called for. The predecessor of this Court had passed the following order:

“By this petition filed under Article 226 of the Constitution of India, the petitioners seek to challenge the order dated 14.01.2015 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (*hereinafter referred to as the ‘learned Tribunal’*) in the Review Application No.5/2015 and also the order dated 20.08.2014 passed by the learned Tribunal in O.A. No.547/2013.

One of the main contentions raised by Mr. Suryakant Singla, the learned counsel for the petitioners is that the learned Tribunal has not given any opportunity to the petitioners and have decided the O.A. in their absence. The learned counsel submits that even a Review Application was preferred by the petitioners vide RA No.5/2015 and the same too was dismissed on the most untenable ground.

Inviting the attention of this Court to para No.4 of the order dated 14.01.2015 passed in the Review Application, the learned counsel submits that O.A. No.547/2013 was listed before the learned Tribunal on 27.05.2014 and the same was adjourned for 30.07.2014. The O.A., somehow came to be listed on 03.07.2014 and thereafter the same was adjourned on several dates and ultimately the learned Tribunal heard the arguments on 25.07.2014 and passed the final order vide order dated 20.08.2014. The learned counsel further submits that in the said order dated 25.07.2014, the learned Tribunal had observed that the learned counsel for both the parties were heard on 25.07.2014 and it is only after hearing both the learned counsel for parties, that the matter was reserved for order but the fact of the matter is that the learned counsel for the petitioners was never present before the learned Tribunal on 25.07.2014. The learned counsel for the petitioners further submits that the order-sheet of 25.07.2014 was found missing but yet the learned Tribunal did not direct any enquiry as to how the court order was missing from the records.

Before we hear this matter or direct notice on the respondent, we direct the presence of Mr. K.P. Sundar Rao & Associates, 18, Central Lane, Bengali Market, New Delhi and Ms. Meenu Mainee, 2A-33,34, GC Grand Vaibhav Khand, Indira Puram, Ghaziabad, the learned counsel for the parties who had

appeared before the learned Tribunal, to appear before this Court on the next date of hearing.

Records of the learned Tribunal be also placed before the Court on the next date of hearing.

List this matter on 07.08.2015.”

4. The original file has been received and we have examined the same.
5. The order sheets show that on 27.05.2014, the case was adjourned to 30.07.2014. However, it was listed on 03.07.2014 when none appeared for any of the parties and the case was then adjourned to 09.07.2014, but the case was listed on 15.07.2014, it was recorded that Ms. Meenu Maini, counsel for the applicant appeared and Mr. Sanjeev Kumar, counsel for the respondents was also present. However, Mr. Sanjeev Kumar, counsel who is also present in Court submits that he was not present on 15.07.2014. The order sheet dated 15.07.2014 reveals that on that date, the case was directed to remain on board. It was again taken up on 16.07.2014, when the following order was passed:

“None appears for the respondents. List the case on 25.07.2014, on which date if respondents are not present, the matter would be heard ex-parte.

It is made clear that no further adjournment shall be granted.”

6. Thereafter, the order sheets reveal that a final order was pronounced on 20.08.2014. It is strange that para 5 of the order dated 20.08.2014 reads that counsel for the applicant Ms. Meenu Mainee and Mr. Sanjeev Kumar were heard, but no order sheet of 25.07.2014 is on record. We need to say no further except that in view of the fact that Mr. Sanjeev Kumar has submitted that he had no notice for 03.07.2014, 15.07.2014, 16.07.2014

and, there is no order sheet of 25.07.2014. Since no order sheet of 25.07.2015 is on record, we are left with no option but to set aside the order dated 20.08.2014 passed by the CAT.

7. Parties to appear before the CAT on 31.08.2015. No further notice would be issued to either of the parties. The original record be sent back forthwith.
8. The writ petition is disposed of in above terms.

CM.APPL 10516/2015(stay)

9. Since the writ petition has been disposed of, the application also stands disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 07, 2015

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