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

+ **W.P.(C) 9368/2015**

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Date of Judgment : 30.09.2015

TUSHAR RANJAN MOHANTY Petitioner

Through : Petitioner in person.

Versus

UNION OF INDIA AND ORS.

..... Respondent

Through : Mr. R. V. Sinha and Mr. R. N. Singh,
Advocates.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G. S. SISTANI, J. (ORAL)

CM APPL. 21745/2015

1. Exemption allowed subject to just exceptions.
2. Application stands disposed of.

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3. Challenge in this writ petition is to the order passed by the Central Administrative Tribunal dated 20.08.2015. The petitioner had challenged the below benchmark grading and adverse remarks in the Annual Performance Appraisal Report (APAR) for the period 01.04.2012 to 31.07.2012. While disposing of the O.A., the following directions were passed by the Tribunal :

“15. In view of such findings, we are of the opinion that the order dated 14.10.2014 must go with the following directions :

(i) The order dated 14.10.2014 is hereby quashed

being against the rules of natural justice.

- (ii) The Competent Authority is directed to consider the representation of the applicant on the basis of the material placed on record and otherwise available in the office as he deems fit.*
- (iii) The Competent Authority could also consider to grant personal hearing to the applicant in case so desired by him.*
- (iv) The Competent Authority may pass a reasoned order in respect of representation of the applicant dated 30.01.2014 within a period of three months from the date of production of certified copy of this order.”*

4. The petitioner who appears in person submits that the Tribunal has quashed the order dated 14.10.2014 and directed the Competent Authority to consider the representation on the basis of material placed on record and otherwise available in the office. A direction has also been issued for grant of personal hearing to the petitioner and thereafter a reasoned order is to be passed with respect to the representation within three months. He further submits that large number of cases are pending between the petitioner and the respondent department in this court and as also before the Central Administrative Tribunal which has led to unpleasantness between the parties. The petitioner submits that having regard to the previous events, past litigation he fears that a fair hearing may not be granted. Petitioner also submits that as per the order of the CAT the representation of the petitioner is to be considered by the Minister but since he has never worked with or under the Minister, the Minister would have no knowledge about the working of the petitioner. He

further submits that he expects no justice from respondent no. 2 as he had challenged his appointment which fact has been taken into account by the Tribunal as well.

5. Heard.
6. We are informed that a former General Chief of the Armed Forces is the concerned Minister in the present case. In our view, the concerned Minister during his career would have had many opportunities to record the ACRs and also would have faced such situations as detailed in the order of the Tribunal.
7. We have full faith that the Hon'ble Minister would act in a fair and just manner. We also have no hesitation in saying that the Hon'ble Minister would apprise himself based on record and not any hearsay information from any quarters. The Hon'ble Minister would consider the material in his right perspective, grant a personal hearing to the petitioner and thereafter decide the matter expeditiously and in accordance with law as the petitioner is due for promotion in the month of February, 2016.
8. The Hon'ble Minister shall also consider the representation, more particularly the fact that Sh. T. S. A. Anant has been shown as the Accepting Authority instead of Reviewing Authority and also clubbing of two ACRs of the year 2012 & 2013. We request the Minister to decide the matter within the period of one month from receipt of the order.
9. With these directions, the writ petition is disposed of.
10. Order dasti.

CM APPL. Nos. 21746/2015, 21747/2015 & 21748/2015

11. In view of the order passed in the writ petition, all applications are disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 30, 2015/sc