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

+ **W.P.(C) 9836/2015**

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Date of Judgment : 16.10.2015

HARBHAJAN SINGH

..... Petitioner

Through : Mr. Medanshu Tripathi, Mr. Sahsh
Rana and Mr. Harish Sharma, Advs.

versus

UNION OF INDIA & ORS

..... Respondents

Through : Mr. Rakesh Kumar, CGSC.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G. S. SISTANI, J. (ORAL)

1. Challenge in this writ petition is to the order passed by the Central Administrative Tribunal dated 16.07.2015.
2. In this case, the Original Application filed by the petitioner herein was allowed primarily only on the ground that along with the charge sheet, list of witnesses was not furnished to the petitioner. Subsequently, the respondent filed a review petition seeking review of the order passed by the Tribunal on the ground that in fact list of witnesses was furnished to the petitioner. The said review petition was allowed. Thereafter, the OA was taken up for fresh hearing and the same was dismissed on 16.7.2015. The relevant paras of the order reads as under :

“4. The contention of the learned counsel for the applicant is that it was by his inadvertent mistake that he did not file the list of witnesses furnished to the applicant alongwith the aforesaid

*OM dated 29.07.2013. He has also stated that he wrongly argued before this Tribunal that respondents did not have any list of witnesses. He expressed his regret for doing so. He has also submitted that this Tribunal has also considered the other fact that the aforesaid Memorandum of Charge was issued just two days' before the retirement of the Applicant and in terms of the judgment of Madras High Court in Writ Petition No. 14786/2011 in the case of **V. Meenakshi Vs. The Director of Social Welfare** dated 17.11.2011, it was not maintainable.*

- 5. Learned counsel for the respondents, on the other hand, submitted that applicant tried to mislead this Court to obtain the aforesaid order dated 20.08.2014.*
 - 6. We have heard M. S. Reen, learned counsel for the applicant and Shri Ashish Nischal, learned counsel for the respondents. There is no dispute in this case that the main argument of the learned counsel for the applicant was that there was no list of prosecution witnesses supplied to the Applicant alongwith the list of document. As the respondents' counsel did not object to the aforesaid submission made at the time of argument, this court accepted the same and allowed the OA. But the fact is that the said statement was factually incorrect. Whether the learned counsel for the applicant has made the said submission knowingly or unknowingly, the order of the Tribunal dated 20.08.2014 got vitiated and such an order is an order in nullity. The other observations that the Memorandum of Charge was issued to the applicant just two days before his retirement by itself will not make it illegal. We are, therefore, of the considered view that the aforesaid order of this Tribunal cannot be sustained and accordingly the same is recalled. Consequently, this Original Application is dismissed. There shall be no order, as to costs."*
3. Learned counsel for the petitioner submits that the petitioner had not authorized his counsel before the Tribunal to make a statement, as noticed above.

4. Learned counsel for the respondents enters appearance on an advance copy.
5. We have heard learned counsel for the parties and considered their rival submissions. The short question, which arises for consideration before this Court, is as to whether along with the charge sheet a list of witnesses and a list of documents were supplied to the delinquent officer or not. While, it is the case of the petitioner that it was not supplied to him, learned counsel for the respondents submits to the contrary.
6. Original record had been produced in court. We have examined the record and we find that along with the charge sheet, a list of witnesses and list of documents have been annexed, and the article of charge sheet also mentions the same. The acknowledgment of the petitioner also finds available on the first page of the said documents. Original record has also been perused by counsel for the petitioner in Court.
7. The only ground raised before us today is that the counsel was not authorized to make a statement in court. Reliance is placed on a letter dated 15.08.2015 addressed by the petitioner to his counsel. The letter reads as under :

“To,
Sh. Manjeet Singh Reen,
Advocate
Hon’ble Central Administrative Tribunal (PB)
Copernicus Marg, New Delhi.

Respected Sir,

I am very hurt to read the Final Order dated
16.17.2015 whereby, the Hon’ble C.A.T. (PB) New

Delhi has dismissed my O.A. vide No. 89/2014. Sir, I don't know why you admitted that it was your inadvertent mistake to submit that my Department had supplied a copy of witnesses with the chargesheet dated 27.09.2013 when it was not even the case of the respondent that they have supplied a copy of list of witnesses with chargesheet on 27.09.2013.

I request you to kindly clarify this issue to this Hon'ble C.A.T. (PB) New Delhi.

Thanking you.

Yours truly

Harbhasan Singh Bains
GG-I/15-C
D.D.A. MIG Flats
Vikas Puri, New Delhi – 110018.”

8. We find the present writ petition to be misconceived in view of the fact that in case such a statement was not made or the counsel was not authorized to make such a statement in Court, the petitioner would have filed a review petition before the Tribunal itself.
9. We find that while the stand taken by the then counsel is fair and honest, the stand of the petitioner is dishonest. We have satisfied ourselves based on the record produced that list of witnesses and list of documents form part of the charge sheet which was supplied to the petitioner. It may also be noticed that the dishonesty of the petitioner is evident upon reading of letter dated 15.8.2015 wherein the counsel has been informed as to why he admitted his mistake when it was not even the case of the respondent.

10. Accordingly, no grounds are made out to entertain this petition and the same is dismissed with cost of Rs.10,000/- to be deposited by the petitioner with Delhi High Court Legal Aid.

CM APPL. 23728-29/2014

11. In view of the order passed in the writ petition, both these applications stand dismissed.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

OCTOBER 16, 2015

msr/sc