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

+ **W.P.(C) 3330/2016**

D.C. KAPIL Petitioner

Through: **Ms.Nandita Rao, Adv.**

versus

BSES RAJDHANI POWER LTD. Respondent

Through: **Mr.Sandeep Prabhakar, Adv.**

CORAM:

HON'BLE MR. JUSTICE V.P.VAISH

ORDER

% **22.04.2016**

CM No.14201/2016

Exemption allowed subject to all just exceptions.

The application stands disposed of.

W.P.(C) 3330/2016

1. By way of present petition the petitioner seeks quashing of show-cause notice cum charge-sheet dated 02.07.2015 and the Inquiry report dated 10.03.2016 emanating therefrom.

2. The petitioner was initially employed by the erstwhile Delhi Vidyut Board in the year 1989 and after the dissolution of Delhi Vidyut Board in the year 2002 the petitioner was transferred to the roll of the respondent, BSES Rajdhani Power Limited. The petitioner worked as Deputy General Manager, of the respondent and

reported various irregularities within the respondent organization. On 06.04.2015, the petitioner was suspended from the service, however, he was reinstated on 28.04.2015.

3. The petitioner along with the workers and employees of the union organised a meeting on 01.05.2015 stated to be beyond 100 metres radius of the respondent company. It is further culled out from the petition that again on 19.06.2015, contractual workers of the respondent went on strike due to inaction of the respondent-company to redress their grievances. The petitioner also participated in the said strike.

4. On 02.07.2015, a show cause notice cum charge-sheet was issued to the petitioner for participating in the said strike. Thereafter, inquiry proceedings commenced on 15.09.2015 and on 10.03.2016 and the Inquiry Officer submitted his report stating that the charges under Articles I, II, III and IV of the charge-sheet were proved and the same was sent to the petitioner by the disciplinary authority for filing reply.

5. The petitioner without filing reply to the inquiry report and taking recourse to the remedy available to him before the appellate authority under the rules, rushed to this Court by way of the present petition under Article 226 of the Constitution of India for quashing the charge-sheet and the inquiry report.

6. The respondent's policy/rules for discipline (at page 99 of the petition) applied to all employees of BRPL across all levels on CTC Rules. Clauses 4.7, 4.9 and 4.10 of the said policy, which are

relevant, are reproduced as under:-

“4.7 After receipt of the enquiry report a copy of the same will be forwarded to the charged official and he/she will be required to submit his/her written statement within the stipulated period.

4.9 In case the charged employee feels that the penalty imposed upon him/her is harsh, he/she has the right to make an appeal before the appellate authority for revision/review of the penalty imposed upon him/her. The charged official can also make a request to the Appellate Authority to be heard in person.

4.10 If the appeal preferred by the charged official is rejected by the appellate authority he/she can also request for revision/review of the penalty to the reviewing authority.”

A perusal of the aforesaid clauses clearly reveals that the petitioner has an alternative remedy available with him against the inquiry report, which, to my mind, he should have exhausted first before rushing to this Court. The High Court will not act in the exercise of its writ jurisdiction when the policy of the respondent clearly provides a remedy by way of appeal to give redress to the grievances of the petitioner. The petitioner should first exhaust such remedy before coming to the High Court to get redress under the writ jurisdiction.

7. In light of the above, I am not inclined to entertain the present petition under Article 226 of the Constitution of India at this stage. The same is accordingly dismissed. However, the petitioner is at

liberty to avail the remedy under the aforesaid policy of the respondent in accordance with law.

CM No.14200/2016

The application is dismissed as infructuous.

V.P.VAISH, J

APRIL 22, 2016/gm