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

+ W.P.(C) 5952/2014 & CM Appl. 14544/2014

UNION OF INDIA

..... Petitioner

Through: Mr. Kirtiman Singh, CGSC, UOI with
Mr. Waize Ali Noor, Adv. and Lt. Vikrant Singh

versus

A.K. SINHA

..... Respondent

Through: Mr. Shivam Singh with Mr. Advitiya
Awasthi, Advs.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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30.03.2016

The present writ petition has been filed challenging the two orders dated 04th July, 2014 passed by the Central Information Commission (for short 'CIC').

Learned counsel for the petitioner submits that reliance placed by the CIC in the impugned orders on the judgment of the Apex Court in *Bihar Public Service Commission vs. Saiyed Hussain Abbas Rizwi and Another, (2012) 13 SCC 61* as well as on its own order dated 14th May, 2010 in *file no. CIC/WB/A/2009/000420, 582 and 602*, is mis-conceived. He states that both the aforesaid cases do not pertain to Defence personnel. He refers and relies upon a judgment of the Apex Court in *Dev Dutt v. Union of India, (2008) 8 SCC 725*, wherein it has been held as under:-

“36. In the present case, we are developing the principles of natural justice by holding that fairness and transparency in public administration requires that all entries (whether poor, fair, average, good or very good) in the Annual Confidential Report of a public servant, whether in civil, judicial, police or any other State service (except the military), must be communicated to him within a reasonable period so that he can make a representation for its upgradation.....”

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38. We, however, make it clear that the above directions will not apply to military officers because the position for them is different as clarified by this Court in Union of India vs. Major Bahadur Singh.....”

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41. In our opinion, non-communication of entries in the Annual Confidential Report of a public servant, whether he is in civil, judicial, police or any other service (other than the military), certainly has civil consequences because it may affect his chances for promotion or get other benefits (as already discussed above). Hence, such non-communication would be arbitrary, and as such violative of Article 14 of the Constitution.”

A perusal of the file reveals that on 08th September, 2014, this Court had stayed the operation of the impugned orders. On 24th September, 2015, this Court had clarified that if the Armed Forces Tribunal (for short ‘AFT’) which was hearing the petition being OA 407/2014 filed by the respondent is of the opinion that the information sought in the present writ petition is relevant, it would be entitled to ask for its production. Subsequently, AFT dismissed the

petition filed by the respondent.

Though the respondent filed a statutory appeal before the Supreme Court challenging the order of AFT, yet the same has been dismissed.

Keeping in view the aforesaid mandate of law as well as the subsequent events that have transpired including the fact that the respondent has now retired, this Court is of the opinion that the impugned orders need to be set aside. Accordingly, the present writ petition is allowed. Pending application also stand disposed of.

MANMOHAN, J

MARCH 30, 2016
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