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

+ **W.P.(C) 5576/2016 & C.Ms. No. 23187-89/2016**

G.L. SAGAR

..... Petitioner

Through: Mr. S.D. Singh with
Mr. Rahul Kumar Singh, Advocates.

versus

EDCIL (INDIA) LTD. & ANR.

..... Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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03.06.2016

1. The present petition has been filed by the petitioner praying *inter alia* for quashing and setting aside the note of disagreement dated 5.5.2016, issued by the respondent No.2/Disciplinary Authority and followed by the order dated 28.5.2016, dismissing him from service with immediate effect.
2. Mr. Singh, learned counsel for the petitioner states that several rounds of litigations have had to be initiated by the petitioner against the respondent no.1, that had culminated in the Supreme Court and this is the fourth round of litigation that has had to be initiated by him. He states that despite the judgment dated 31.8.2015, passed in **W.P(C) 11487/2009** entitled "G.L. Sagar vs. Union of India & Ors.", wherein the petitioner had challenged the penalty of dismissal imposed by the Disciplinary Authority vide order dated 9.9.2008 and the order dated 20.2.2009, passed by the Appellate Authority,

the matter was remanded back to the Disciplinary Authority to first give a tentative note of disagreement with regard to those charges that has not been substantiated by the Enquiry Officer but were disagreed by him and thereafter, call for a representation from the petitioner and consider the matter afresh by passing a fresh order. It was also held that the petitioner is entitled to reinstatement with 50% back wages with effect from 9.9.2008, till the date of his reinstatement.

3. It is the contention of the learned counsel for the petitioner that the respondent have failed to abide by the judgment dated 31.8.2015 inasmuch as the impugned note of disagreement dated 05.5.2016, is not tentative, but final in nature and thus stands vitiated. As a consequence thereof, the impugned order of removal from service is also flawed and liable to be quashed.

4. It is an undisputed position that the petitioner has a remedy of filing an appeal against the order dated 28.5.2016, before the Board of Directors of the respondent No.1, the Appellate Authority. However, he has not exhausted the said option and instead approached the court directly.

5. Learned counsel for the petitioner states that he may be permitted to withdraw the present petition, while reserving the right of the petitioner to file an appeal against the note of disagreement dated 5.5.2016 and dismissal order dated 28.5.2016, passed by the Disciplinary Authority. He states that petitioner shall file an appeal within a period of one week from today and take all the grounds as may be available to him therein including those pleaded in the present petition, and requests that the Appellate Authority may be directed to consider and decide the same as expeditiously as is possible.

6. It may noted that despite an advance copy of the paper book having been furnished by counsel for the petitioner to the counsel for the respondents, none has appeared on their behalf.

7. Be that as it may, the present petition is dismissed as withdrawn with liberty granted to petitioner to file an appeal against the disagreement note dated 5.5.2016 and the order dated 28.5.2016, passed by the Disciplinary Authority within one week from today. Upon receiving the said appeal, the Appellate Authority of the respondents shall consider the same and take a decision as expeditiously as is possible, preferably within six weeks from the date of receipt thereof.

HIMA KOHLI, J

JUNE 03, 2016

ap/mk