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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6453/2016**
MEENAL PASSI

..... Petitioner

Through: Mr. Satinder Singh and Mr. Avinash
Detha, Advs.

Versus

UNION OF INDIA & ANR

..... Respondent

Through: Mr. Rajesh Kumar, Senior Panel
Counsel along with Mr. Abhishek Khanna, G.P.,
for respondent No.1.

Mr. B.K. Sood and Mr. Shriom Rawat and Mr.
Tejinder Singh, Advs. for R-2.

Mr. R.V. Sinha and Mr. A.S. Singh, Advs. for
CVC/R-3

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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17.10.2016

W.P.(C) 6453/2016 & CM APPL. 34836/2016 (under Order 6 Rule 17 CPC)
& 34837/2016

1. At the request of the learned counsel for the petitioner, the Central Vigilance Commission (CVC) is impleaded as a party to the writ petition as respondent No.3.
2. Mr. R.V. Sinha accepts notice on behalf of respondent No. 3.
3. CM 34836/2016 seeks amendment in the writ petition to incorporate certain relevant rules and documents concerning the conduct of the inquiry proceedings and the issuance of the charge-sheet to an officer who has earlier worked with the Vigilance Department of a Government

Organisation, i.e., R-2.

4. The petitioner's case is that she worked with the Vigilance Department of the Bureau of Indian Standards (BIS) for a period of three years. Therefore, in terms of the instructions issued by the CVC vide Circular No. 63/3/06 dated 28th March, 2006, she would be granted protection against victimisation "of officials of the Vigilance Units of various Ministries/Departments/Organisation".

5. The petitioner is aggrieved both by the Transfer Order dated 29.04.2016 as well as by the inquiry proceedings initiated against her in terms of the charge-sheet dated 01.09.2016 issued to her for certain alleged misconduct. The charge-sheet is annexed to the amendment application.

6. Mr. B.K. Sood, the learned counsel for respondent No. 2 states that since the writ petition is not maintainable, therefore the amendment application too needs to be dismissed. The Court, however, is of the view that the petitioner has claimed protection under the aforesaid Circular which provides for certain procedural protections to the officials of the Vigilance Units of various Ministries/Departments/Organisation. Paragraph No. 3 (iii) of the aforesaid Circular of the CVC dated 28th March, 2006 reads as under:

(i) All personnel in Vigilance Units will be posted only in consultation with and the concurrence of the CVOs. They will be for an initial tenure of three years extendable up to five years. Any premature reversion before the expiry of such tenure will only be with the concurrence of the CVO. The CVO shall bring to the notice of the Commission any deviation from the above.

(ii) The ACR of personnel working in the

Vigilance Department will be written by the CVO and reviewed by appropriate authority prescribed under the relevant conduct rules. The remarks in review shall be perused by the CVO and in case he has reservations about the comments made under the review, he shall take it up with the Chief Executive/HOD to resolve the issue. In case he is unable to do this he shall report the matter to the Commission who will intercede in the matter suitably.

(iii) Since the problem of victimisation occurs, if at all, after the reversion of the personnel to their normal line departments, the Commission would reiterate the following:

(a) On such reversion the vigilance personnel shall not be posted to work under an officer against whom, while working in the vigilance department, he had undertaken verification of complaints or detailed investigation thereafter. Needless to say his ACR shall not be written by such officer(s).

(b) All such Vigilance personnel will be deemed to be under the Commission's purview for purposes of consultation in disciplinary matters. This is irrespective of their grade. This cover will be extended to a period of not less than five years from the date of reversion from the vigilance department.

(c) All Vigilance personnel on reversion shall be entitled to represent through the CVO and chief executive of the organisation to the Commission if they perceive any victimisation as a consequence of their working in the Vigilance department. This would include transfers, denial of promotion or any administrative action not considered routine or normal. This protection will be extended for a period not less than five years after the reversion of such personnel from the vigilance department.

7. The Court is of the view that insofar as the procedural protection is alleged to have been breached, the incorporation of the rules and reference thereto in the writ petition would be essential for the petitioner's case. Hence, the application for amendment of the writ petition ought to be allowed. Accordingly, the application is allowed.

8. On the petitioner's representation against her perceived victimisation by BIS, the CVC sought a response from the BIS. Their reply was sent on 22.07.2016 which has been acknowledged by the CVC. However, CVC's response thereto is awaited. The petitioner's entire case is that the rules providing protection to her under the aforesaid CVC Circular should be fully complied with. The CVC is seized of the response of BIS and its decision is awaited.

9. In the circumstance, at the request of the learned counsel for the

petitioner, the writ petition shall be treated as a representation to the CVC and a decision thereon shall be taken within a period of four weeks from today as per rules. During this period, the petitioner shall not be under any duress to file a reply to the charge-sheet. Should the CVC not take a decision within the time granted to it, it will be open to the petitioner to pursue appropriate remedies, as may be available to her in law.

10. The writ petition is disposed off in the above terms. The Court has expressed no opinion on the merits of the case.

11. The date of 27.10.2016 stands cancelled.

12. A copy of this order be given dasti under the signature of the Court Master.

NAJMI WAZIRI, J

OCTOBER 17, 2016/acm