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

+ W.P.(C) 7519/2016

% *Judgment dated 7th September, 2016*

T.M. SAMPATH Petitioner

Through : Petitioner in person.

versus

UNION OF INDIA & ORS. Respondents

Through : Ms.Shiva Lakshmi, CGSC, Mr.Ruchir
Ranjan Rai and Ms.Shreya Sinha,
Advs. for respondent no1.
Mr.A.S. Singh, Adv. for Mr.R.V.
Sinha, Adv. for respondent no.2 to 4.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S. MEHTA

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order dated 27.7.2016 passed by Central Administrative Tribunal (in short '*the Tribunal*') in OA No.1706/2015, whereby the Tribunal, while allowing the OA filed by the petitioner, has not awarded any costs.
2. The brief facts of the case are that the petitioner was initially appointed as a Stenographer, Grade II, in the respondent organization/NWDA in the year 1984. Thereafter the petitioner was promoted to the post of Stenographer, Grade I, in the year 1990; to the post of Private Secretary in the year 1992; and to the post of Administrative Officer in the year 2001.
3. As per the petitioner, in the year 2002, he made a complaint to the Central Vigilance Commission against one, Sh.R.K. Jain, Chief Engineer (Headquarters), who was holding the additional charge of

CVO, as Sh.R.K. Jain was involved in making illegal appointments to the post of LDC by accepting illegal gratification, due to which Sh.R.K. Jain spoiled his APAR for the period 2011-2012, 2012-2013 and 2013-2014. The petitioner challenged the action of Sh.R.K. Jain by filing OA No.1706/2015. In the meanwhile, petitioner superannuated from service on 31.7.2015. Post his retirement, the petitioner has settled in Bangalore. On 14.12.2015, the petitioner filed MA seeking permission of the Tribunal to file an additional affidavit. The said application was allowed by the Tribunal. The petitioner thereafter filed PT No.2/2016 before the Tribunal seeking transfer of OA No.1706/2015 to Central Administrative Tribunal at Bangalore on the ground that he is living in Bangalore after his retirement, he has no source of income and he is facing financial hardship due to which he is unable to bear travel expenses and expenses for stay in Delhi. The Tribunal rejected the request of the petitioner vide order dated 18.2.2016. Aggrieved by the rejection, the petitioner filed MA No.2420/2016 in the disposed of OA No.1706/2015 seeking modification of the order limited to the grant of costs in the sum of Rs.2.00 lakhs. The said MA was dismissed by the Tribunal on 10.8.2016. Aggrieved by rejection of the MA, the petitioner filed the present writ petition for imposing of costs of Rs.2.00 lakhs on respondents no.3 and 4 for spoiling his APAR due to personal vengeance.

4. The petitioner, who appears in person, submits that his grievance is that while the Tribunal by the order dated 27.7.2016 has allowed the OA and held that APAR of the petitioner for the year 26.8.2011 to 16.1.2012 has become *non est* in the eyes of law and it has to be ignored for all purposes, and for the APAR of the petitioner for the period 1.4.2012 to 31.3.2013 the Tribunal held that the remarks of the

Reviewing Officer deserves to be expunged, but no costs was awarded to him. Petitioner further submits that the MA filed by him seeking modification of the order dated 27.7.2016 was also dismissed by the Tribunal on the ground that the author of the order dated 27.7.2016 has become *functus officio* and, thus, could not entertain the MA. The petitioner also submits that he is presently residing in Bangalore, he is suffering from diabetes and is also facing acute financial hardship. It is contended by the petitioner that on account of his financial hardship, he is unable to bear the travel expenses, expenses qua stay in Delhi and contest the matter.

5. Notice. Learned counsel for the respondents enter appearance on an advance copy and accept notice.
6. We have heard, the petitioner, who appears in person and counsel for the respondents and also carefully examined the order dated 27.7.2016 passed by the Tribunal in the OA and the order dated 10.8.2016 passed by the Tribunal in the MA.
7. We may notice that while allowing the OA, the Tribunal had ordered that there would be no order as to costs. Subsequently, the petitioner filed MA, claiming costs of Rs.2.00 lakhs, which was also dismissed by the Tribunal vide order dated 10.8.2016, relevant portion of which reads as under:

“MA No.2420/2016

This MA has been filed seeking the following reliefs:

“In view of the above submissions and circumstances and in the interest of justice, this Hon’ble Tribunal may be pleased to impose a cost of Rs.2,00,000/- on respondent Nos.3 & 4 and in favour of applicant.

May also pass any other order(s) as deemed fit and proper to meet the ends of justice.”

It is seen that OA No.1706/2015 was decided by my order dated 27.07.2016, operative part of which reads as follows:

8. *I, therefore, allow this OA and hold that APAR of the applicant for the period 26.08.2011 to 16.01.2012 has become nonest in the eyes of law and has to be ignored for all purposes. As far as, APAR for the year 01.04.2012 to 31.03.2013 is concerned, the remarks of the Reviewing Officer deserve to expunge. Ordered accordingly. This benefit may be given to the applicant within a period of sixty days from the date of receipt of a certified copy of this order. There shall be no order as to cost.”*

I have specifically ordered that there shall be no order as to cost. After having passed this order, I have become functus officio and now cannot entertain any MA to modify the aforesaid order.

In view of the aforesaid, this MA is dismissed.”

8. At this stage, the petitioner who appears in person, submits that at least symbolic costs be awarded if not actual costs keeping in view that he is living in Bangalore after his retirement, he has no source of income and he is facing financial hardship due to which he is unable to bear travel expenses and expenses for stay in Delhi
9. Having regard to the submissions made, the order dated 10.8.2016 passed in OA is modified and the order dated 27.7.2016 passed in OA is modified to the extent that respondents no.3 and 4 shall pay costs of Rs.15,000/- to the petitioner.

10. Writ petition stands disposed of in view of above.

G.S.SISTANI, J

I.S. MEHTA, J

SEPTEMBER 07, 2016

msr

