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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 7028/2015

D. TIWARI

..... Petitioner

Through : Dr. L.S. Chaudhary with
Mr. Ajay Chaudhary, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through : Mr. Vivek Goyal, CGSC with
Mr. Santosh Kumar Pandey, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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15.01.2016

1. The present petition has been listed subject to an office objection with regards its maintainability.
2. It is pertinent to note that this is not the first petition of the same nature that has been filed by the petitioner. Prior hereto in the year 2010, the petitioner had filed WP(C)No.8405/2010 for the same relief, which was directed to be transferred to the Central Administrative Tribunal (CAT) for the reason that the petitioner is an employee of the Cabinet Secretariat, i.e., the Central Government and disputes pertaining to service aspects of a Central Government employee have to be decided by the CAT. Pursuant to the order dated 12.2.2013, the paper book of WP(C)No.8405/2010 was transferred to the CAT and the petition registered as TA No.11/2013.

3. In the order dated 24.4.2014 passed by the CAT, the statement of the counsel for the petitioner was recorded to the effect that the petitioner is a member of the Armed Force of the Union and not being a civilian employee of the Air Force, the Tribunal does not have the jurisdiction to entertain the petition. Learned counsel for the petitioner had therefore sought leave to withdraw the said petition, while reserving the right of the petitioner to seek review of the order dated 12.2.2013, passed in WP(C)No.8405/2010, whereby the writ petition was transferred to the Tribunal.

4. After addressing arguments for some time on the maintainability of the present petition, when the review application moved by the petitioner in W.P.(C) 8405/2010 has yet to be listed before the concerned Bench, learned counsel for the petitioner states that he may be permitted to withdraw the present petition, while reserving the right of the petitioner to first approach the CAT for seeking expungement of the statement of the petitioner's counsel recorded in the order dated 24.04.2014 on the ground that the petitioner is not a member of the Armed Force of the Union and that he is a member of the President's Secretariat and therefore, entitled to avail of the remedy of filing a writ petition in the High Court and thereafter pursue the review application filed in the captioned writ petition.

5. In view of the submission made by the counsel for the petitioner, leave is granted to withdraw the present petition, while reserving the right of the petitioner to first approach the CAT for seeking review of the order dated 24.4.2014 and if liberty is so granted, pursue the review application stated to have been filed in WP(C)No.8405/2010.

6. Needless to state that this Court has not touched the merits of the case in view of the objection with regard to the maintainability of the petition raised by the Registry. In the event the petitioner succeeds in the review application proposed to be filed before the CAT and thereafter, he approaches the Registry with a request to place before the Court, the review application filed in WP(C)No.8405/2010 for seeking review of the order dated 24.4.2014, the said application shall be listed, subject to the petitioner filing certified copies of all the relevant documents that form a part of the record of TA 11/2013 before the CAT, which he seeks to rely on for arguing the review application.

7. The writ petition is disposed of.

HIMA KOHLI, J

JANUARY 15, 2016/sk/rkb/ap

SUNIL GAUR, J