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

+ W.P.(C) 10297/2015 & CM APPL. 25634/2015

B.S. JARIAL

..... Petitioner

Through : Mr.R.K. Saini and Mr.Varun Nagrath, Advs.
versus

GOVT. OF NCT OF DELHI AND ANR

..... Respondents

Through : Ms.Mahna Kalra, Adv. for Mr.Peeyoosh
Kalra, ASC (Civil) for GNCTD.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S. MEHTA

ORDER

% **14.07.2016**

1. Present writ petition has been filed by petitioner under Articles 226/227 of the Constitution of India seeking a direction to quash the order dated 28.8.2015 passed by Central Administrative Tribunal in OA No.4261/2013.
2. It may be noticed that in the order dated 18.11.2015, it has been noticed by us that the only ground urged before us is that the charge sheet has been issued by a person who was not duly authorised.
3. Mr. Saini, learned counsel for the petitioner submits that for the alleged misconduct in the year 2003, the charge sheet has been issued by an incompetent authority. It is the case of the petitioner that the competent disciplinary authority in the case of the petitioner is the Lt. Governor and not the Chief Secretary.
4. Mr.Saini further submits that the counsel, who had appeared before the Tribunal on behalf of the petitioner, had brought to the notice of the Tribunal a decision rendered by a Coordinate Bench of the Tribunal in O.A.No.778/2006 titled as ***R.D. Bohet v. Lieutenant Governor of Delhi And Ors.*** Mr.Saini further submits that the judgment rendered in ***R.D. Bohet*** (supra) was upheld by the High Court and the SLP filed has also

been dismissed.

5. Counsel for the respondent however, disputes the submission of the counsel for the petitioner. She submits that the charge sheet has been issued by a competent authority which is the Chief Secretary. She further submits that the Tribunal has considered the judgment in the case of **R.D. Bohet** (supra). Counsel for the parties, however, are in agreement that after noticing the submissions of the petitioner, no finding on this issue has been returned by the Tribunal. As jointly prayed, the impugned order is set aside. The matter is remanded back to the Tribunal. The Tribunal shall render a specific finding whether the charge sheet has been issued by a competent person or not. We make it clear that we have not expressed any opinion on the merits of the matter.
6. Parties to appear before the Tribunal on 17.08.2016, as prayed by the counsel for the petitioner.
7. Writ petition and the application stand disposed of.

G.S.SISTANI, J

I.S. MEHTA, J

JULY 14, 2016

msr /