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

+ **W.P.(C) 789/2016**

BALBIR SINGH

..... Petitioner

Through: **Ms.Nisha Priya Bhatia, Adv.**

versus

STATE NCT OF DELHI AND ORS

..... Respondents

Through: **Mr.Devesh Singh, ASC (Civil) for
GNCTD.**

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

27.09.2017

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The petitioner has preferred the present petition to assail the order dated 14th January, 2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No.2749/2015. The petitioner had assailed, what is claimed to be inquiry report dated 23rd April, 2013 and the communication dated 31st December, 2014 initiating a preliminary inquiry, on the ground that the petitioner had not been given adequate opportunity and the said exercise was undertaken with mala fide intention.

The Tribunal, while disposing of the said Original Application, observed in paragraph 6 as follows:-

“6. The Tribunal at this stage cannot record any finding relating to the correctness or otherwise of such contention of the applicant. A preliminary inquiry having been conducted and the inquiry committee having

submitted the report, it is for the disciplinary authority to look into it and take a decision relating to the initiation of the departmental proceedings or otherwise. The disciplinary authority, however, in doing so shall take into consideration all the relevant materials including the fact that the applicant has already retired from service on attaining the age of superannuation. The disciplinary authority shall also take into consideration that the vigilance clearance has already been given to the applicant. The applicant having already retired from service, no proceedings however, can be initiated against him without the sanction of the President as provided under Sub Rule (2) of Rule 9 of CCS (Pension) Rules, 1972.”

A reading of the impugned order gives the impression that the Tribunal was of the view that a disciplinary inquiry may be held against the petitioner-who already stood retired from service on 30th April, 2014, in compliance of Rule 9(2) of the CCS (Pension) Rules, 1972.

During the pendency of this petition, the respondents were specifically required to disclose whether any disciplinary proceedings are proposed to be undertaken against the petitioner. Though the response to the said query has not been placed on record, Mr. Devesh Singh, counsel for the respondents, has today tendered in court a compilation of correspondence which shows that the respondents are now contemplating constituting a committee for audit of missing records related to financial matters dealt with by the Petitioner during his tenure w.e.f. 21st July, 2012 to 30th April, 2014, and also contemplating the registration of a criminal case against the petitioner. Mr. Singh, however, submits that no disciplinary proceedings are intended to be initiated against the petitioner. On a query by the Court he, under instructions, states that

Presidential sanction as required under Sub-Rule (2) of Rule 9 of CCS (Pension) Rules, 1972, has also not been taken.

In view of the aforesaid, we dispose of the present petition while observing that no departmental proceedings are pending or would be initiated against the petitioner.

VIPIN SANGHI, J

REKHA PALLI, J

SEPTEMBER 27, 2017/aa