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

+ W.P.(C) 1089/2017 & CM Nos.4968-69/2017

PARDEEP KUMAR Petitioner

Through: Mr. P.C. Misra, Advocate

versus

CHIEF SECRETARY, GOVT. OF NCT DELHI & ORS

..... Respondents

Through: Mr. Sanjay Ghose, ASC

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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08.02.2017

Having heard learned counsel for the petitioner, we are not inclined to interfere with the impugned order dated 30.11.2016.

The petitioner has been convicted under Section 13(i)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 ('PC Act') and Sections 120-B/468/420/471/201 of the IPC. He has been sentenced to RI for a period of one year and fine of Rs.6,000/- and in default, to undergo SI for three months for the offence under the PC Act read with Section 120-B IPC. Similarly, identical punishments have also been imposed for the offence under Section 468 IPC read with Section 120-B IPC, Section 420

read with Section 120-B IPC, Section 471 IPC read with Section 120-B IPC, Section 201 IPC read with Section 120-B IPC and Section 120-B IPC.

In Criminal Appeal No.1083/2012 preferred by the petitioner, his sentence has been suspended during the pendency of the appeal, subject to furnishing a personal bond in the sum of Rs.25,000/-, with one surety of the like amount. The conviction itself has not been suspended.

According to us, the petitioner approached the Tribunal in haste and hurry, and prematurely when he had challenged the Show Cause Notice dated 8.8.2016 issued to him under Rule 19 of the Central Civil Services (CCA) Rules, 1965. The contention of the petitioner that earlier his suspension order was revoked is inconsequential. It would not, as per the respondents, reflect and indicate that the authorities had given up or decided not to proceed on the basis of the said conviction. The contention that the authorities had earlier issued Show Cause Notice dated 17.9.2012 could be raised as a defence by the petitioner. When OA No.2813/2016 was pending, the respondent authorities had passed the order dated 6.9.2016, imposing penalty of removal from service.

In our opinion, the Tribunal has rightly observed that the petitioner should file a statutory appeal. We do not see any reason for interference with

the impugned order dated 30.11.2016.

We, however, clarify that the order passed by the Tribunal or by this Court will not be treated as final and binding on merits, even on the question what is the effect of the first Show Cause Notice dated 17.9.2012 and the order dated 15.01.2014 withdrawing the deemed suspension from service. These aspects would be examined by the appellate authority.

With the aforesaid observations, the writ petition is dismissed. All pending applications are disposed of.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

FEBRUARY 08, 2017
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