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

+ W.P.(C) 3483/2017 & CM APPL. 15254/2017 (stay)

COMMISSIONER OF POLICE AND ORS. Petitioners
Through: Mr.Santosh Kumar Kr. Tripathi, ASC
Mr. Rizwan, Advocate.

versus

PRATAP SINGH MEENA Respondent
Through: Mr. Manjit Singh Ahluwalia, Advocate.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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22.11.2017

1. Appearance is entered by learned counsel for the respondent, who states that he has received a complete set of the paper book. With the consent of the parties, the matter is taken up for disposal today itself.
2. The petitioners/Delhi Police are aggrieved by the order dated 30.08.2016, passed by the Central Administrative Tribunal in an O.A. filed by the respondent, who was working on the post of a Sub-Inspector in the Delhi Police and had assailed the punishment of censure imposed on him by the petitioners vide order dated 15.01.2013, duly upheld by the Appellate Authority, vide order dated 10.09.2013.
3. In the impugned order, the Tribunal had observed that the petitioners had issued two notices to show cause to the respondent, the first one was dated 22.11.2012 and the second one was dated 12.12.2012. Both the said notices to show cause referred to an incident wherein the respondent had allegedly called a lady to the police station after sun set. The date of the

incident mentioned in both the notices to show cause was 01.11.2012. It was the version of the respondent in his reply dated 21.03.2016, that no such incident had taken place on 01.11.2012 and the incident that actually took place, was on 31.10.2012.

4. Having regard to the aforesaid position, the Tribunal observed that it was a case of non-application of mind on the part of the competent authority in initiating disciplinary action against the respondent and accordingly, set aside the impugned order.

5. Learned counsel for the petitioner states that once the Tribunal had set aside the impugned order on the ground of non-application of mind on the part of the competent authority, a consequential order ought to have been passed granting an opportunity to the petitioners to issue a fresh notice to show cause, based on the incident that had taken place prior to 22.11.2012, the date of issuance of the first impugned notice to show cause, and thereafter, an opportunity of hearing could have been granted by the petitioners to the respondent to submit reply for a fresh decision to be taken thereafter. However, no such directions were issued, hence the present petition.

6. Learned counsel for the respondent states that as long as the petitioners refer to the material available with them prior to the date of issuance of the first notice i.e., 22.11.2012, the respondent would not have any objection to a fresh notice to show cause being issued. He states that the respondent may be granted an opportunity to respond to the said show cause notice, and take all the pleas available to him in facts and in law therein.

7. In view of the limited grievance raised by the petitioners as recorded hereinabove, we deem it appropriate to modify the impugned order dated

30.08.2016 passed by the Tribunal by directing that since the two notices to show cause dated 22.11.2012 and 12.12.2012 issued by the petitioners, have been quashed and set aside on the ground of non-application of mind, the petitioners are granted liberty to issue a fresh notice to show cause to the respondent within four weeks. The said notice to show cause shall refer to all the relevant material available with the petitioners as on 22.11.2012. An opportunity to respond shall be afforded to the respondent. After considering the pleas taken by the respondent in his reply, an appropriate order may be passed by the petitioner under written intimation to the respondent. If the respondent is aggrieved by the fresh decision taken by the petitioner, he shall be entitled to seek legal recourse.

8. The present petition is disposed of at the stage of admission, along with the pending application.

HIMA KOHLI, J

REKHA PALLI, J

NOVEMBER 22, 2017

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