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

+ **W.P.(C) 3324/2017 & C.M. Nos.14531-14532/2017**

SURESH SHARMA Petitioner
Through Mr.M.K. Bhardwaj, Adv. with
petitioner in person.

versus

NTRO AND ORS Respondent
Through Mr.Amit Mahajan, Adv.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **18.08.2017**

1. We have heard learned counsel for the parties and with their assistance, perused the records. The petitioner has impugned the order dated 24th March, 2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No.941/2017. The Tribunal had dismissed the said Original Application preferred by the petitioner. The petitioner is facing departmental proceedings pursuant to charge-sheet dated 7th September, 2012. The disciplinary authority appointed an inquiry officer to conduct the inquiry and submit his report to the disciplinary authority. The Inquiry Officer submitted his report which was provisionally accepted by the disciplinary authority and a copy of the same was sent to the petitioner to grant him opportunity to make his representation, if any. The respondent-

NTRO also forwarded a copy of the inquiry report to UPSC for consultation. The UPSC vide its letter dated 4th March, 2016 pointed out that the Inquiry Officer had not conducted the general examination of the petitioner/charged officer as required by Rule 14(18) of the CCS (CCA) Rules, 1965. The NTRO, taking cognizance of the aforesaid procedural lapse, decided to conduct the inquiry in respect of the said chargesheet, from the stage of general examination of the petitioner/charged officer in terms of Rule 14(18) of the CCS (CCA) Rules. Accordingly, a memorandum dated 9th February, 2017 was issued to the petitioner informing him about the “de novo inquiry”. The petitioner raised objection to the use of the word “de novo inquiry” and contended before the Tribunal that “de novo inquiry” could not be held. The Tribunal rejected the submission of the petitioner by observing that the expression “de novo inquiry” is a misnomer since all that has been done is to resume the inquiry proceedings from the stage of compliance of Rule 14(18) of the CCS (CCA) Rules.

2. Aggrieved by the aforesaid order, the petitioner has approached this Court. On the first date when the writ petition was taken up for hearing on 19th April, 2017, the following order was recorded by the Court:-

“The submission of Mr.Bhardwaj, learned counsel for the petitioner is that the petitioner has not raised, and will not raise the aspect of the procedure under Rule 14(18) of the CCS (CCA) Rules not being complied with by the inquiring authority. He submits that the petitioner would be satisfied, if the inquiry report made by the inquiring authority is taken as the basis for action

by the disciplinary authority. This statement is made without prejudice to the rights and contentions of the petitioner on all other aspects.

Issue notice. Mr.Mahajan accepts notice.

Let the respondents report instructions on whether, in view of the statement made on behalf of the petitioner, there is any necessity to hold any further inquiry for compliance of Rule 14(18) of the CCS (CCA) Rules.

Adjourned to 28.04.2017.

Till the next date, the disciplinary authority may not pass any final orders. ”

3. The submission of learned counsel for the petitioner before us, once again is that a de novo inquiry could not be held. We do not accept this submission of learned counsel for the petitioner. Mere use of the expression “de novo inquiry” does not render the same as a completely fresh inquiry. The respondents while using the said expression, in their memorandum dated 9th February, 2017, had clearly qualified that the said inquiry would be held from the stage of general examination of the charged officer in terms of Rule 14(18) of the CCS (CCA) Act. It appears that the petitioner did not participate in the inquiry proceedings re-opened against him.

4. In view of the non-participation of the petitioner, the respondents proceeded ex parte. It is informed that the inquiry officer had subsequently submitted a fresh inquiry report to the disciplinary authority.

5. In view of the aforesaid, there is no merit in the present petition and the same is, accordingly, dismissed.

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6. In view of the writ petition having been dismissed, these applications do not survive for adjudication and are dismissed as such.

VIPIN SANGHI, J

REKHA PALLI, J

AUGUST 18, 2017/aa