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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 4108/2017, CM No. 18008/2017
RAMESH KUMAR

..... Petitioner

Through: Mr. Rishikesh Kumar, Adv.

versus

BSES YAMUNA POWER LIMITED

..... Respondent

Through: Mr. Sandeep Prabhakar, Adv. with
Mr. Vikas Mehta, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **12.05.2017**

CM No. 18008/2017 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 4108/2017

1. This petition has been filed challenging the order dated July 17, 2014 whereby the petitioner was removed from service on his conviction under Section 7 and 13(1)(d) read with Section 13(2) of Prevention of Corruption Act. The said conviction has been upheld till Supreme Court. Initially in an Appeal before this Court, the imprisonment of three years was reduced to 18 months. On a further appeal to the Supreme Court, the imprisonment was

reduced to one year. The order of the Supreme Court at page 79 is reproduced as under:-

“XXXXX

XXXXX

XXXXX

The case in hand is of the year 1995. The bribe amount is said to be Rs.3,500/-. The appellants have faced prosecution, conviction and resultant trauma and harassment for the past nearly 20 years. It is obvious that with their convictions affirmed they will stand dismissed from service. In the totality of all these circumstances, we are inclined to allow these appeals to the extent that the sentence awarded to the appellants shall stand reduced to a period of one year on each count with a direction that the same shall run concurrently. The fine imposed and the sentence awarded in default shall however remain unaltered. The appeals are disposed of with the above directions.”

2. The only submission made by the learned counsel for the petitioner is, the respondent had not issued any show cause notice before passing the order dated July 17, 2014.
3. Mr. Sandeep Prabhakar, learned counsel appearing for the respondent would concede that no show cause notice was issued to the petitioner. He also states that in view of the observation of the Supreme Court at page 79, reproduced above, the removal of the petitioner in these facts was justified.
4. On the other hand, learned counsel for the petitioner would state that

it is the case of the petitioner in the writ petition that similarly placed employees, despite conviction against them, have been given retiral benefits, which have been denied to the petitioner. He states, that he would be satisfied if this writ petition is treated as a representation on behalf of the petitioner against the penalty and the same is considered by the respondent and if they are satisfied with the stand of the petitioner, they can recall the order dated July 17, 2014, otherwise, the said order would stand against the petitioner. He also requests that the respondent be directed to give a personal hearing to the petitioner so as to make the process of consideration of representation more effective. Mr. Prabhakar has no objection in that regard.

5. Having noted the submissions made by the learned counsel for the parties, I deem it fit to direct the respondent to treat this writ petition as a representation on behalf of the petitioner in lieu of reply had the show cause was issued and consider the same by giving a personal hearing to the petitioner before passing appropriate orders. The said process shall be completed within eight weeks from the date of receipt of copy of this order.

6. With the aforesaid direction, the writ petition is disposed of.

V. KAMESWAR RAO, J

MAY 12, 2017/ak