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

+ **W.P.(C) 4509/2017**

UOI AND ORS

..... Petitioners

Through: Mr R.V. Sinha, Adv.

versus

GIRDHAR SINGH

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% 24.05.2017

CM APPL. 19685/2017 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 4509/2017 and CM APPL. 19686/2017 (Stay of impugned order)

The petitioner-Union of India has preferred the present writ petition to assail the order dated 02.09.2016 passed by the Central Administrative Tribunal ("the Tribunal") in Original Application (OA) No.3432/2012. While disposing of the said Original Application, the order dated 19.04.2012 passed by the Appellate Authority has been set aside and the matter has been remanded back to the Appellate Authority with a direction that he shall furnish the advice from the Union Public Service Commission (UPSC) to the respondent within four weeks and call upon the respondent to submit

his representation/response thereto within four weeks thereafter. On receipt of the response/representation, the Appellate Authority shall take a fresh decision and pass a fresh order within a period of two months thereafter.

We find absolutely no merit in the present petition. The Tribunal has while passing the impugned order has placed reliance on the decision of the Supreme Court in *Union of India & Ors. vs. S.K. Kapoor* (2011) 4 SCC 589 and *Union of India & Ors. vs. R.P. Singh* (2014) 7 SCC 340 which lay down that in compliance of principles of natural justice it is essential that the Disciplinary Authority or the Appellate Authority, as the case may be, shall furnish to the delinquent official the recommendation of the UPSC so that he can represent against the same before the order is passed either by the Disciplinary Authority or the Appellate Authority, as the case may be. In the present case, the Disciplinary Authority had not consulted the UPSC, however, at the appellate stage, the Appellate Authority has consulted to the UPSC and this fact has also been considered by the Appellate Authority. However, the recommendation of the UPSC had not been furnished to the respondent and consequently the impugned order came to be passed.

In these circumstances, we find no merit in the petition and the same is dismissed.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 24, 2017

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