

\$~1

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 5551/2017, CM No. 23338/2017

NAVEEN GOEL

..... Petitioner

Through: Mr. Sachin Chauhan, Adv.

versus

THE CHAIRMAN & MANAGING DIRECTOR, DELHI TRANSCO
LTD. & ORS

..... Respondent

Through: Mrs. Avnish Ahlawat, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

%

10.08.2017

1. On July 18, 2017 this Court had passed the following order:-

“Pursuant to the order dated 7th July, 2017, Mrs. Avnish Ahlawat, on instructions state, it has been decided that the evidence which has come on record in the earlier enquiry held pursuant to memorandum dated 24th October, 2013 shall only be taken into consideration, in so far as the Articles of Charge framed vide the said memorandum. She states that no fresh evidence shall be brought on record against those Articles. In other words, evidence shall be led only on the additional allegations in the memorandum dated 2nd January, 2017. The Enquiry Officer shall consider the complete evidence, i.e., evidence already come on record in terms of the earlier enquiry and the evidence to be led in the fresh enquiry while giving his report.

During hearing, Mr. Sachin Chauhan, would submit the respondents have appointed a new Enquiry Officer in place of Mr. Mukesh Sharma, the earlier Enquiry Officer. Mrs. Ahlawat

seeks 10 days time to file an affidavit on the lines of her submissions noted above and also stating the reason for appointment of new Enquiry Officer. Response thereto shall be filed within one week thereafter. Re-notify on 10th August, 2017.

The respondents shall instruct the Enquiry Officer to adjourn the proceedings to a date beyond 10th August, 2017.”

2. The aforesaid order reveals two aspects; (i) the statement made by Mrs. Avnish Ahlawat that the evidence, which has come on record in the earlier enquiry held pursuant to the Memorandum dated October 24, 2013 shall only be taken into consideration, insofar as the Articles of Charge framed vide the said Memorandum. In other words, no fresh evidence shall be brought on record against those Articles of Charge; (ii) The plea of Mr. Sachin Chauhan that a new Enquiry Officer has been appointed in place of Mr. Mukesh Kumar Sharma to enquire into the additional charge framed vide Memorandum dated January 02, 2017.

3. A short affidavit has been filed by the respondents acknowledging the statement as made by Mrs. Avnish Ahlawat. I reproduce paras 4 and 5 of the short affidavit as under:-

“4. That on the last date of hearing i.e 18.07.2017 a statement was made before this Hon’ble Court that, Petitioner’s apprehension that he has already disclosed his defence and therefore, he will be prejudice in the fresh enquiry has been looked into and it has been decided that the evidence which has

already come on record in the earlier enquiry held pursuant to memo dated 24.10.2013 shall only be taken into consideration in so far as the first part of Articles of charge framed vide memorandum dated 02.01.2017. No fresh evidence shall be brought on record against those Articles which were part of charge memo dated 24.10.2013. The evidence shall be led only on the additional allegations in the memorandum dated 02.01.2017 i.e accepting a bribe of Rs.25,000/- and on Article-III of charge memo dated 02.01.2017.

5. That the enquiry officer however, after recording the evidence on additional allegations and giving Petitioner a chance to rebut the same shall consider the complete evidence i.e evidence already come on record pursuant to charge memo dated 24.10.2013 and the fresh evidence and then give his fresh report considering both the evidences on all the three Articles of charge memo dated 02.01.2017. Thereafter, the Disciplinary Authority will deal with that enquiry report in accordance with law.”

4. Insofar as the appointment of the new Enquiry Officer in place of Mr. Mukesh Kumar Sharma is concerned, the affidavit reads as under:-

“6. That another apprehension of the Petitioner that, Respondents have appointed a new enquiry officer in place of Mr. Mukesh Kumar Sharma the earlier enquiry officer is ill founded. There is no specific reason for the change of the enquiry officer except that the Disciplinary Authority felt that since, the new charge sheet has been issued on 02.01.2017 a new enquiry officer may be appointed. However, Respondents have no objection to give the enquiry to same person i.e Mr. Mukesh Kumar Sharma in case, the Hon’ble Court feels that the same enquiry officer should conduct the enquiry.”

5. As the respondents have stated that they have no objection to give the enquiry to the same person i.e Mr. Mukesh Kumar Sharma, it is directed that

the enquiry shall be conducted by Mr. Mukesh Kumar Sharma.

6. Mr. Chauhan states, the aforesaid shall satisfy the petitioner, insofar as the grievance raised in this petition, and the petition be disposed of as such. It is ordered accordingly.

CM No. 23338/2017 (for direction)

Dismissed as infructuous.

V. KAMESWAR RAO, J

AUGUST 10, 2017/ak