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

+ **W.P.(C) 6345/2017**

PAWAN KUMAR

..... Petitioner

Through: Petitioner in person

versus

UNION OF INDIA AND ORS

..... Respondent

Through: Mr. Akshay Makhija, CGSC with Mr.
Shivi Sanyam, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

26.07.2017

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C.M. No. 26281/2017

Exemption allowed, subject to all just exceptions. The application stands disposed of.

C.M. No. 26282/2017

For the reasons stated in the application, the additional documents filed is taken on record. The application stands disposed of.

W.P.(C) 6345/2017

The petitioner has preferred the present petition to assail the order dated 28.04.2017 in R.A. No. 60/2017 in O.A. No. 3052/2016 and M.A.

No.628/2017. The background in which the present writ petition has been filed is that the petitioner preferred the aforesaid O.A., which was disposed of vide order dated 21.09.2016. The petitioner/ applicant was given liberty to make a representation and the respondents were given two months to consider the same and dispose it of with a reasoned order.

Against this order, the petitioner approached this court by filing W.P. (C.) No.419/2017. That writ petition was disposed of as withdrawn on 18.01.2017 with liberty to approach the tribunal to file a review. The court observed that in case the review is filed, the same may be considered as per parameters of review. Consequently, the petitioner preferred the review application which has now been rejected by the tribunal.

The submission of the petitioner/ applicant in the review application was that he had not consented to make a representation. His submission was that he wanted his O.A. be heard and decided on merits. The tribunal has, however, held that the initial order dated 21.09.2016 was passed in open court in the presence of his counsel. The tribunal held that no ground for review is made out.

The petitioner, who appears in person, submits that he has been a victim of political interference and he was transferred by unfairly stigmatising him. He submits that in the facts and circumstances of the case, no purpose would have been achieved by making a representation. He submits that he had sought the hearing of the O.A. on its merits. He further states that this court should itself adjudicate his grievance in the first instance.

Mr. Makhija, who appears on advance notice for the respondents, is agreeable that to alleviate the suffering of the petitioner, the impugned order dated 28.04.2017 passed in the review application, as well as the order passed by the tribunal on 21.09.2016 may be set aside, and the matter be remanded back to the tribunal for hearing of the O.A. on its merits, since the petitioner states that he would not like to make any further representation.

We are not inclined to accede to the petitioner's prayer that this court should examine his grievance in the first instance. This court while exercising its jurisdiction under Article 226 of the Constitution of India undertakes judicial review of orders passed by the tribunal. The tribunal has been constituted for the purpose of undertaking the first tier scrutiny on facts and law. Accordingly, in the interest of justice, we set aside the impugned order dated 28.04.2017 as well as the order dated 21.09.2016 and remand the O.A. back to the tribunal for its consideration on merits.

The O.A. was preferred in the year 2016, and even when the initial order was passed on 21.09.2016, no counter-affidavit/ reply was filed by the respondents. In these circumstances, we grant the respondents one last opportunity to file their reply to the O.A. within two weeks. The respondent shall also keep their original records available for scrutiny by the tribunal on the next date, and on subsequent dates that the tribunal may fix.

The parties shall appear before the tribunal on 17.08.2017. No further notice shall be required to be issued to either of the parties in respect of the date fixed before the tribunal.

We request the tribunal to, if possible, accommodate the petitioner's case for hearing on the date fixed, or on such other early convenient date as

may be available, keeping in view its diary. We hope and expect that the O.A. will be heard and disposed of within the next four months by the tribunal. A copy of this order be communicated to the tribunal.

The petition stands disposed of in the aforesaid terms.

Dasti.

VIPIN SANGHI, J

REKHA PALLI, J

JULY 26, 2017

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