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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 391/2017 & CM 1819/2017**

Date of Decision : 18th January, 2017

VIJAY PRAKASH Petitioner
Through: Ms. Mamta Chandra, Advocate

versus

UNION OF INDIA AND ORS Respondents
Through: Mr. Arun Bhardwaj, CGSC

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

1. Vijay Prakash, in this writ petition, impugns the order dated 20.7.2016 passed by the Principal Bench of the Central Administrative Tribunal ('Tribunal' for short), New Delhi, whereby his OA, challenging the penalty of dismissal imposed by the Disciplinary Authority vide order dated 27.4.2011, affirmed by the Appellate Authority vide order dated 10.10.2011 and the Revisional Authority vide order dated 28.6.2012, has been rejected.
2. The contention is that the factual findings are perverse and incorrect and the charges were never established and proved as most of the prosecution witnesses did not make affirmative statements, implicating the petitioner. The version given by the defence witnesses has not been appreciated and given adequate notice.

3. The petitioner was served with the charge/memorandum dated 18.3.2009/6.4.2009 on the following article of charge:

“Article I

That while functioning as Mail Peon, Foreign Post, New Delhi- 110002, Shri Vijay Prakash was allegedly found to have been lying along with an outsider woman in altogether naked condition and indulging in sex with each other in a compromising position on 06.01.2009 at about 17.30 hours in the recreation club hall 3 OA No.73/2013 situated adjacent to the departmental canteen at the 3rd floor of Foreign (sic) Post building, New Delhi-110002.

Thus by the above act, the said Shri Vijay Prakash is alleged to have committed a grossly immoral act which is subversive of discipline and office decorum and amounts to an act of misconduct listed in Govt. of India Decision No.23 below Rule 3 of CCS (Conduct) Rules, 1964 (Swamy’s Compilation of CCS (Conduct) Rules. Thirty Seven Edition).

By doing so, the said Shri Vijay Prakash is further alleged to have acted in a manner which is unbecoming of a Government servant thereby contravening the provisions of Rule 3(1)(iii) of CCS (Conduct) Rules, 1964”

4. The Disciplinary Authority, relying upon the Inquiry Report, held that the charges were proved, and vide order dated 27.4.2011, penalty of dismissal from service was imposed. As noticed above, the Appellate and

the Revisional Authority have affirmed the said factual findings.

5. The Tribunal, in the impugned order, has minutely examined the facts and has negated the challenge to the factual findings recorded by the authorities, holding that the charges were proved beyond doubt. Pertinently, the petitioner had made an admission in writing immediately after the date of occurrence, on 6.1.2009. Later on, the petitioner had claimed that the woman was distantly related to him. He did not dispute the presence of the said woman on the date of occurrence in the office. The Inquiry Report also refers to the statement of witnesses and, in particular, to the contemporaneous documents prepared at that spot.

6. We do not find that the factual findings recorded in the Inquiry report, affirmed by the Disciplinary Authority, Appellate Authority, the Revisional Authority and the Tribunal, are perverse or unreasonable.

7. No other contention is urged or argued on behalf of the petitioner.

8. The petition has no merit and the same is dismissed. CM 1819/2017 is also dismissed.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

JANUARY 18, 2017

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