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

+ **W.P.(C) 7902/2017 & C.M. Nos.32667-68/2017**

PREETI KATHURIA

..... Petitioner

Through: Mr. Rajsekhar Rao with Ms. Swathi
Sukumar, Mr. Ralha Rahman and Ms
Surya Rajappan, Adv.

versus

LALIT KALA AKADEMI & ANR

..... Respondent

Through: Mr. Umesh Sharma, CGSC for R-1
Mr. Arun Bhardwaj, CGSC with Mr.
Anil Dabas for R-2

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

13.09.2017

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The petitioner has preferred the present petition to assail the order dated 24.07.2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT/ Tribunal) in O.A. No.4366/2015. The tribunal has dismissed the O.A. preferred by the petitioner, wherein she had assailed the termination of her services while she was on probation. The tribunal has held that the termination of the petitioner's service is non stigmatic.

The case of the petitioner is that she had submitted a report on 08.09.2014, wherein she pointed out discrepancies in the respondent

organisation. According to the petitioner, the respondents became inimical towards the petitioner on account of her acting as a whistleblower. Consequently, she was issued a memorandum on 14.01.2015 making baseless allegations against the petitioner of committing mistakes in the editing of the annual report for the year 2013-14. The petitioner claims that thereafter the respondents have proceeded to terminate her services vide order dated 30.03.2015.

Having perused the record and even the original file dealing with the case of the petitioner which was summoned by us, we are satisfied that there is on merit in this petition. The termination of the petitioner does not appear to be a result of the petitioner having made the report dated 08.09.2014.

Pertinently, even after the petitioner had submitted the report dated 08.09.2014, her probation was extended on 30.09.2014. Had the making of the report dated 08.09.2014 been the reason for the petitioner's termination, the probationary period need not have been extended beyond 30.09.2014. Thus, there is nothing to connect the making of the said report dated 08.09.2014 with the termination of the petitioner's services. From the record, it appears that the termination is premised on unsuitability of the petitioner and on her poor performance. The ACR grading for the year 2013-14 is also reflective of her poor performance.

The record shows that when the petitioner was issued an advisory to improve her performance, she reverted back with a defiant stand, which reflects on her aversion to improve her ways, and her arrogance.

Mr. Rao has submitted that there were three other probationers who were similarly graded and awarded four marks - like the petitioner, yet their services have not been terminated. The petitioner has been singled out.

We do not find any merit in this submission of the petitioner. Merely because the other employees have been awarded the same marks as the petitioner in their Annual Reports, it does not follow that their services too ought to have been terminated like the petitioner. There are different attributes which go into the assessment of any employee while writing the Annual Reports. While some of the attributes may be relevant for the purpose of taking a decision - whether or not to continue the services of the petitioner, the others may not be.

The reporting officer had reported in relation to the petitioner as follows:

“Lacks editing skills. No past experience in the concerned field. Arrogant in her behaviour and argues a lot on petty issues. Tries to evade responsibilities and does not take initiative to complete the work on deadlines. Also remains absent from her seat for long duration”.

Even from the file noting, on the basis of which the decision to terminate the services of the petitioner has been taken, it appears that the petitioner was arrogant and disobedient. She had even been deputed to attend a course, and she bunked the same.

In these circumstances, we are of the view that there is no merit in this petition. The same is, accordingly, dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

SEPTEMBER 13, 2017

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