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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8378/2017, CM No. 34501/2017**
G P KUMAWAT

..... Petitioner

Through: Mr. N.S. Dalal, Mr. Aman Mudgal &
Ms. Toral Banerjee, Advs.

versus

GOVT OF NCT OF DELHI AND ORS

..... Respondent

Through: Mr. Ravinder Agarwal, Adv. for R4
Ms. Jyoti Taneja, Adv. for GNCTD

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **20.09.2017**

1. The present petition has been filed by the petitioner with the following prayers:-

“Therefore, on the facts and in the circumstances of the case, it is most humbly and respectfully prayed that this Hon’ble Court may kindly be pleased to:-

(i) Issue an appropriate writ, order or direction thereby quashing the Charge sheet dated 19.10.2016 on the basis of which disciplinary proceedings have been initiated against the petitioner;

(ii) Issue an appropriate writ, order or direction thereby holding that the entire proceedings is without jurisdiction and void ab-initio and, thus, nullity in the eyes of law;

(iii) Issue an appropriate writ, order or direction thereby holding that initiation of disciplinary proceedings and appointment of the enquiry officer by the Central Vigilance Commission and approval of the same by the respondent No.2 is without jurisdiction;

(iv) Award costs of the present Writ Petition in favour of the petitioner and against the Respondents;

(v) Pass any such other or further orders as this Hon'ble Court may deem fit and proper on the facts and in the circumstances of the case, in favour of the petitioner and against the respondents."

2. It is the case of the petitioner that he and his family members availed LTC facility and travelled from Delhi to Cochin from Indigo flight and came back on the same flight on December 26, 2014. In the month of January, 2015, he submitted the bill, which was forwarded to the petitioner by the agent through e-mail for a sum of Rs.1,40,400/-. The said amount was reimbursed. On May 04, 2016, the petitioner was placed under suspension on the ground of contemplation of inquiry. The respondent issued a letter dated July 21, 2016 thereby asking the petitioner to return the excess amount along with interest. The petitioner refunded the excess amount on August 04, 2016 and the same was credited in the bank account of the respondent No.2. On October 19, 2016 a charge sheet was issued to him.

3. It is the case of the petitioner and contended by Mr. N.S. Dalal that the charge sheet issued to the petitioner was because of mala fide of the respondent No.5, during the period he was given the look after charge of the Managing Director. That apart, he states that the charge sheet, which has been issued is on the directives of the CVC, which has no jurisdiction on the employees of the Govt. of NCT of Delhi, in view of the provisions of The Central Vigilance Act, 2003. That apart, it is his submission, the charges have been framed on the basis of an anonymous complaint and such a complaint could not have been taken cognizance of, in terms of the instructions issued by the CVC. He would plead discrimination, inasmuch as many similarly placed employees have not been issued charge sheet. He also states, the respondent No.6, who is an Officer of the Engineers India Limited could not have been appointed as an Inquiry Officer, that too by CVC overlooking the panel prepared by the GNCTD in that regard.

4. Insofar as the submission of Mr. N.S. Dalal that the CVC does not have the jurisdiction on the Officers of the Govt. of NCT of Delhi in view of the provisions of CVC Act is concerned, there is no dispute that the petitioner is a Group 'A' Officer. Even otherwise, to seek advice is an aspect different from initiation of Disciplinary Proceedings, by issuing a

charge sheet, which is the subject matter of challenge in these proceedings.

5. That apart, I may note, the petitioner in his reply to the charge sheet dated October 19, 2016 does not take any such objection. Rather, he relies upon the advice of the CVC vide letter dated June 26, 2016 (page 50 of the paper book) whereby the Commission after examining the reference received by the IPGCL and PPCL, advised the issuance of a suitable caution memo to all the Officers concerned for lapses on their part and for recovery of the amounts, if any due from the private parties as per procedure and instructions. That apart, he relied on the instructions of the CVC, that anonymous complaints cannot be taken cognizance of. So, the plea of Mr. Dalal that the instructions issued, by the CVC, in view of the CVC Act primarily being for inquiring into offences alleged to have been committed under the Prevention of Corruption Act by certain categories of public servants of Central Government, Corporations are not applicable is not sustainable.

6. Insofar as the plea of Mr. Dalal alleging malice against respondent No.5 is concerned, nothing has been placed on record to show that a person given look after charge cannot exercise the powers attached to the post to which such a charge has been given. That apart, I state, the allegation of

malice against respondent No.5 would be unsustainable when in terms of page 86 of the paper book, it is seen that, it is the CVC, which has advised the major penalty proceedings against the petitioner.

7. Insofar as the submission of Mr. Dalal based on the judgment of the Supreme Court in the case reported as *(2014) 1 SCC 351 Union of India v. B.V. Gopinath* is concerned, the same is also unsustainable, more so when the charge sheet itself has been issued by the Managing Director, who according to Mr. Dalal is the Competent Authority for issuance of charge sheet. The same shall depict the initiation of the disciplinary proceedings and the approval of the charges by the Managing Director.

8. Even the plea of Mr. Dalal that a show cause notice need to have been given before issuance of charge sheet is concerned, the same is not tenable. He has not shown me any instruction in that regard. That apart, the challenge to the appointment of the respondent No.6, an employee of the Engineers India Limited as an Inquiry Officer by CVC instead from a panel prepared by the Govt. of NCT is concerned, the same also is not appealing for more than one reason, inasmuch as (i) Mr. Dalal has not shown any Rule or an instruction, which contemplate that for holding an inquiry against the Officers of the Govt. of NCT, the Inquiry Officer need to be appointed from

the panel prepared by the Govt. of NCT of Delhi; and (ii) no prejudice shall be caused to the petitioner if an inquiry is conducted by an independent person that too, appointed by the CVC.

9. In view of the discussion above, I do not see any merit in the present petition. The same is dismissed.

CM No. 34501/2017

Dismissed as infructuous.

V. KAMESWAR RAO, J

SEPTEMBER 20, 2017/ak