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

+ **W.P.(C) 3429/2018**

R. S. RANA

..... Petitioner

Through: Mr.Chetan Sharma, Sr. Adv. with
Mr.Malya Chand, Adv.

versus

C.F.S L THROUGH ITS DIRECTOR AND ORS..... Respondents

Through: Mr. Arun Birbal with Mr.Sanjay
Singh, Advs./DDA

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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09.04.2018

CM APP No.13518/3018

1. Allowed,subject to all just exceptions.

W.P.(C) 3429/2018

2. Mr. Sharma, learned Senior Counsel, who appears for the petitioner, seeks accommodation to place on record, apart from anything else, the petition filed by the petitioner before the Central Administrative Tribunal (CAT) [i.e. OA No. 497/2014] along with the orders passed in those proceedings. Besides what is indicated above, the petitioner will also file the charge sheet issued to him.

3. In this writ petition, the following substantive prayers have been made:-

1. Issue a writ of mandamus or in nature of fundamental right thereby quashing and setting aside the communication dated 04.05.2016.

2. Issue a writ of mandamus of in nature of fundamental right thereof/ direct the respondents to grant a hearing on his representations dated 10.03.17, 17.04.17 & 14.08.17.

3. Direct the respondent to associate to decide the representations dt 10.03.17, 17.04.17 & 14.08.17 with a time bound schedule not exceeding 60 days of making of such order.

4. The record shows that the petitioner's main grievance is that after his answer sheet was re-evaluated, and he was promoted to the post of Assistant Director with effect from 24.01.2006, based on a complaint, the promotion order was withdrawn and that too, with retrospective effect. This order was passed by respondent No.2, on 11.05.2012. It appears that thereafter, a charge sheet was issued to the petitioner on 06.06.2013, wherein, the allegation made was that he had made material changes in his answer sheet.

5. Mr. Sharma submits that the issuance of charge sheet, has been assailed by the petitioner by way of a petition which has been filed before the Central Administrative Tribunal (CAT). This petition, as indicated above, is numbered as O.A. No.497/2014.

6. I am informed by Mr. Sharma that the said petition is pending and as a matter of fact an interim order has been passed in favour of the petitioner, to the effect, that no final order will be passed during the pendency of the petition.

7. The petitioner claims that the impugned communication dated 04.05.2016 (Annexure P-8) was issued without giving the petitioner due opportunity. The petitioner had, it appears, made representations in that behalf, to which, reference has been made in prayer Clause (2) and (3) of the writ petition.

8. Mr. Birbal, who appears on advance notice, submits that, as a matter

of fact, it is the stand of DDA/respondent no.2 that the petition filed before CAT is premature and that the Disciplinary Authority is yet to examine the matter.

9. The aforesaid broad facts clearly indicate that the aspects referred to in this petition, in particular, the document qua which relief is sought in prayer clause (1) of the writ petition is inextricably connected to the petition pending before CAT.

10. In these circumstances, I am of the view that this petition if proceeded with before this Court will give rise to conflicting orders and, therefore, the petition is dismissed with liberty to the petitioner, if so advised, to approach the Tribunal with an appropriate application.

11. Needless to say, the Tribunal will examine the grievance of the petitioner with respect to the aspects adverted to in the petition, albeit, in accordance with law.

RAJIV SHAKDHER, J.

APRIL 09, 2018
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