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

+ W.P.(C) 3014/2011 & CM Nos. 6408/2011

ASHISH MOHAN

..... Petitioner

Through: Mr Naushad Ahmed Khan, ASC
(Civil), GNCTD alongwith mr Zahid
Hanief, Advocate.

versus

SL KHATRI

..... Respondent

Through: Mr Moninder J. S. Rupal, and Mr
Prag, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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19.07.2018

1. The petitioner has filed the present petition, *inter alia*, assailing the decision of the Central Information Commission (CIC) dated 03.07.2010 (impugned order), whereby the CIC has imposed a penalty of ₹18,000/- upon the petitioner for delay of seventy two days in providing the information.
2. The petitioner had explained that his subordinate (Virender Kumar, UDC) had received the RTI application filed by the respondent. But instead of placing it before the petitioner, the said subordinate had forwarded the same to the deemed PIO (BDO Northwest) for the necessary information, as the information sought for by the respondent was not available with the petitioner. The said officer had, instead of sending the information directly to the information seeker (respondent herein), had forwarded the

information to the petitioner who then forwarded the same to the respondent.

3. The CIC had examined the aforesaid explanation and found the same to be unacceptable, principally, for the reason that it was the petitioner's duty to ensure that the information was provided within the time prescribed and he could not be heard to place the blame on the clerk or by stating that the application had been forwarded to the BDO (Northwest). More importantly, the CIC found that the explanation provided by the petitioner was also incorrect, as Mr Virender Kumar (UDC) had not dispatched the letter to BDO (Northwest) within the time as stated by the petitioner in his explanation. It was found that the said letter was posted on 07.06.2010 instead of 07.05.2010 as claimed by the petitioner.

4. Mr Naushad Ahmed Khan, learned counsel appearing for the petitioner submits that the entry was made in the dispatch register on 07.05.2018 and the petitioner had not verified whether the letter had, in fact, been posted before submitting his explanation, as he had assumed that the letter would have been posted immediately, thereafter. He also referred to the letter dated 05.10.2010 sent by Mr Virender Kumar (UDC), wherein he has explained that at the material time, he was holding an additional charge and because of heavy work load had been unable to post the letter immediately after entering the same in the dispatch register.

5. Mr Naushad Ahmed Khan, pleads that although there is no dispute that the petitioner cannot be absolved of his responsibility of the delay in providing information to the respondent, but this error is not of such a magnitude so as to result in an adverse impact on the petitioner's career; which he states would necessarily follow as a result of the imposition of

penalty.

6. Considering the petitioner's role in supplying the information to the respondent, this Court is of the view that the penalty imposed on the petitioner is excessive. However, since it is not disputed that the petitioner must bear the responsibility for the delay in providing the information as sought for by the respondent, this Court considers it apposite that the penalty be reduced. Accordingly, the penalty is reduced from ₹18,000/- to ₹5,000/-.

7. There is, undoubtedly, a lapse on the part of the petitioner; however, there is merit in the contention that the same is not significant enough to warrant an adverse impact on the petitioner's career. It is, therefore, clarified that the impugned order would be ignored while considering matters relating to the petitioner's service and apart from requiring the petitioner to pay the penalty, would not prejudicially affect him in any manner.

8. The petition is disposed of with the aforesaid observations. The pending application is also disposed of.

VIBHU BAKHRU, J

JULY 19, 2018
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