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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6564/2018**

SHRINIWAS MEENA Petitioner
Through: Mr. Prateek Tushar Mohanty,
Advocate
versus

UNION OF INDIA & ANR Respondents
Through: Mr. Praveen Kumar Jain & Ms.
Komal Pandey, Advocates for R-1

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI
HON'BLE MS. JUSTICE PRATHIBA M. SINGH

ORDER
% **08.06.2018**

C.M. No. 25053/2018

Allowed subject to all just exceptions.

The application stands disposed of.

W.P.(C) 6564/2018 & C.M. Nos. 25051-25052/2018

This writ petition has been filed against the order/judgment dated 30.05.2018 of Central Administrative Tribunal, Principal Bench, New Delhi. The impugned order reads as under:

“The applicant is holding the post of Engineer-in-Chief in Central Public Works Department on 28.09.2017. A Memorandum of charges came to be issued to him on 28.9.2017 (Annexure A-2 (Colly). Pursuant to which departmental proceeding was initiated.

2. Inquiry is stated to have been concluded. It is alleged that the inquiry has not been conducted by the Inquiry Officer in accordance with law. Accordingly, the applicant has approached this Tribunal in this OA seeking the following reliefs:

“8.1 to allow the present Application;

8.2 to quash and set aside Paragraph 5 of the impugned Daily Order Sheet dated 25.05.2018 (Annexure : A-1) inasmuch the same directs taking on record straightaway the Prosecution Documents that have not been admitted by the Applicant/Defence, as being bad in law;

8.3 to consequently direct Respondent No. 2 to consider, for the purpose of giving his findings in the enquiry, only those of the Prosecution Documents, the authenticity and genuineness of which and the authenticity and genuineness of the contents of which as may be proved by the Prosecution through Witnesses;

8.4 to issue any such and further orders/directions this Hon'ble Tribunal deems fit and proper in the circumstances of the case; and

8.5 to allow exemplary costs of the application.”

3. Heard Shri Prateek Tushar Mohanty, learned counsel for the applicant briefly at the admission stage.

4. We are of the view that if Inquiry Officer has conducted illegality in conduct of the inquiry, the applicant can raise his objection and get it recorded in the proceedings of the inquiry or alternatively he can represent to the Disciplinary Authority. At this stage indulgence of the Tribunal in the matter is totally uncalled for. Accordingly, we dismiss this OA.”

We have heard the counsel for the parties. Counsel for the petitioner has moved the interim application being C.M. No. 25052/2018 seeking the following reliefs:

- “(i) to allow the present Civil Miscellaneous Application;
 - (ii) to grant the Interim Relief prayed for by the Petitioner in O.A. No. 2224 of 2018;
- or, alternatively,
- (iii) stay the Enquiry Proceedings till the disposal of the Writ Petition; and
 - (iv) to pass any such further order or direction which this Hon’ble Court thinks and feels fit and proper in the facts and circumstances of the present case.”

Definitely, the OA was filed before the CAT for intervening in the disciplinary proceedings with the prayer that they may be permitted to cross examine the witness. Undisputedly, the grant of relief sought in OA 2224/2018 is final in nature and it could not be by way of interim application.

We are agreeable with the finding and the view taken by the CAT that if some illegality is being committed during the pendency of the enquiry, the same would be subject to the objections. Even otherwise, if the illegality is fatal to the enquiry, then it can be raised at the appropriate stage. As on today, apparently the purpose of the writ petition is to stop the enquiry proceedings which cannot be accepted.

However, it is made clear that if the petitioner is not satisfied with the enquiry report and on its completion is of the view that the procedure adopted in the enquiry vitiates the enquiry proceedings itself, he would be at liberty to approach the CAT or file the writ petition in accordance with law.

The writ petition and the applications are disposed of.

P.S.TEJI, J

PRATHIBA M. SINGH, J

JUNE 08, 2018

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