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

+ **W.P.(C) 7601/2018 & C.M. Nos.29078-79/2018**

SIGMN KHAJA MOHIDDIN BHASHA SHAIK Petitioner
Through **Mr.R.K. Dash, Adv. with Mr.Mujahid Ahmad, Adv., Mr.Sachin Chauhan, Adv., Mr.Sishir Raj, Adv. & Mr.Md. Irshad Hanif, Adv.**

versus

UNION OF INDIA & ORS Respondents
Through **Mr.Abhay Prakash sahay, Adv. for R-1 to 3.**

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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24.07.2018

1. The petitioner is aggrieved by the interim order dated 11th July, 2018, passed by the Armed Forces Tribunal, Principal Bench, New Delhi, whereby the earlier order dated 23rd August, 2017, was modified. Vide order dated 23.08.2017, the respondents were permitted to continue with the disciplinary proceedings with a rider that if any punishment is imposed on him, the same shall not be given effect to without the permission of the Tribunal.

2. By the impugned order, the Tribunal has modified the order dated 23rd August, 2017 and permitted the respondents to promulgate the sentence against the petitioner in accordance with law while

adjourning the main petition for arguments to 8th August, 2018.

3. Aggrieved by the aforesaid order, the petitioner has filed the present petition. The gravamen of the argument of the counsel for the petitioner is that if the respondents are permitted to promulgate the sentence against the petitioner, then the main petition itself would be rendered infructuous. He states that there was no justification for modifying the order dated 23.08.2017, more so when the main matter has been adjourned to 8th August, 2018, for arguments.

4. When this petition was listed yesterday, upon an urgent mentioning being allowed by Hon'ble the Acting Chief Justice, the same could not be taken up for arguments as one of us (Rekha Palli, J) was busy in an urgent COFEPOSA Board matter scheduled at 3 p.m. As a result, the matter was adjourned for today. We may note that learned counsel for the respondent was present in the Court yesterday when the matter was taken up.

5. Today, learned counsel for the petitioner states that the respondents have shown great hurry in promulgating the sentence against the petitioner by passing an order in the early hours of this morning. On being confronted with the aforesaid position, learned counsel for the respondents stated that the matter may be passed over to enable him to obtain instructions.

6. On the second call, learned counsel for the respondents states that the promulgation order was passed by the respondents at 08:50 hours this morning and the same will be withdrawn during the course of the day thereby restoring the petitioner's status as was existing

yesterday, i.e., on 23rd July, 2018.

7. We have deprecated the conduct of the respondents in trying to render the present petition infructuous by passing a promulgation order, knowing very well that this matter was listed yesterday and was adjourned for admission today.

8. While binding the respondents to the aforesaid statement made by their counsel, the present petition is disposed of along with the pending applications with a direction issued to the parties to appear before the Tribunal on 8th August, 2018, for addressing final arguments in the matter. None of the parties shall be accommodated for an adjournment by the Tribunal, which shall pass appropriate orders in the pending Original Application filed by the petitioner in accordance with law. Till an appropriate order is passed by the Tribunal, the respondents shall remain bound by the statement recorded hereinabove.

HIMA KOHLI, J

REKHA PALLI, J

JULY 24, 2018/aa