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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 9071/2018 & C.M. Nos. 34926-928/2018

MADAN MOHAN

..... Petitioner

Through : Mr.Shankar Raju with Mr.Nilansh Gaur,
Advocates.

versus

UNION OF INDIA

..... Respondent

Through : Mr.Amit Mahajan, CGSC with Mr.Dhruv
Pandey, Advocate.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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29.08.2018

1. The petitioner is aggrieved by an order dated 25.07.2018, passed by the Central Administrative Tribunal dismissing OA No.2759/2018 filed by him challenging the charge-sheet issued to him by the respondent proposing to impose a major penalty on him. Further, the petitioner has assailed an order dated 20.08.2018, passed by the Tribunal dismissing Review Application No.139/2018 filed by him seeking review of the order dated 25.07.2018.

2. It may be noted at the outset that this is the second round of litigation that the petitioner has initiated in the High Court. Prior thereto, aggrieved by the order dated 25.07.2018 passed by the Tribunal, the petitioner had filed a writ petition in the High Court

[W.P.(C)8194/2018] which was disposed of on 06.08.2018 at the stage of admission itself, in view of the statement made by the learned counsel for the petitioner that he be permitted to withdraw the said petition while reserving the right of his client to approach the Tribunal to challenge an office order dated 03.04.2018, issued by the Department of Expenditure, Ministry of Finance, Government of India on the subject of allocation of work to the Minister of the State in the Ministry of Finance which had not been challenged in the Original Application filed before the Tribunal.

3. In view of the statement of the learned counsel for the petitioner, leave as prayed for was granted and the writ petition was disposed of while making it clear that this Court had not made any observations on the merits of the pleas taken by the petitioner in the said writ petition including those relating to the office order dated 03.04.2018. It was also observed that if the petitioner approaches the Tribunal to assail the office order dated 03.04.2018, it would be open to the Tribunal to take a view in the matter, in accordance with law. Similarly, the respondent was also permitted to take all pleas in opposition to the said petition including its maintainability before the Tribunal.

4. Despite the aforesaid liberty granted to the petitioner to file an independent petition before the Tribunal challenging the office order dated 03.04.2018, he elected to exercise the review jurisdiction of the Tribunal by filing RA No.139/2018, for seeking review of the order dated 27.08.2018, that came to be dismissed vide order dated

20.08.2018 with the observation that the only basis pleaded for review of the order in the O.A. was that if the order dated 25.07.2018 is recalled, then the O.A. would be restored to its original position and resultantly, the petitioner will have the liberty to amend the prayer in the OA for challenging the office order dated 03.04.2018. Observing that the aforesaid submission was contrary to the observations made by the High Court in W.P.(C) 8194/2018, the review application filed by the petitioner has been rejected by the Tribunal holding that he cannot on his own, interpret the order passed by the High Court.

5. Aggrieved by the aforesaid order, the petitioner has filed the present petition. Mr.Raju, learned counsel for the petitioner states that the Tribunal has erred in rejecting the review application particularly when an error apparent on the face of the record was pointed out in the said application.

6. On perusing the averments made in the review application, particularly the grounds taken for seeking review of the order dated 25.07.2018, it transpires that the petitioner has conceded therein that inadvertently, he did not impugn the sub-delegation office order dated 03.04.2018 and that in case the Tribunal recalls the aforesaid order, he would get an opportunity to assail the said order by amending the OA.

7. The aforesaid averment leaves no manner of doubt that the petitioner was conscious of the fact that he has not challenged the order dated 03.04.2018, at the time of filing the Original Application. It may be pertinent to mention here that while passing the order dated 06.08.2018, in the first writ petition filed by the petitioner (W.P.(C)

8194/2018), we had specifically observed that on perusing the relief prayed for in the O.A., it was noticed that no challenge had been laid by the petitioner to the office order dated 03.04.2018, though he had himself enclosed the said document along with the Original Application. It was in the light of the said observation that the learned counsel for the petitioner had sought leave to withdraw the writ petition while reserving the right of his client to approach the Tribunal to challenge the office order dated 03.04.2018. Further, this Court had clarified that the petitioner would be entitled to file a petition to challenge the office order dated 03.04.2018 and at the same time, had reserved the right of the respondents to take all pleas in opposition to the said petition, including its maintainability before the Tribunal. Despite the clear directions issued as noted hereinabove, the petitioner chose to interpret it in the manner he wanted to and instead of filing an independent petition to challenge the order dated 03.04.2018, he proceeded to file a review application, seeking review of the order dated 25.07.2018.

8. We do not see any error or infirmity in the review order dated 20.08.2018, passed by the Tribunal; nor are we inclined to entertain the present petition against the Tribunal's order dated 25.07.2018, passed in O.A No.2759/2018, particularly when counsel for the petitioner had sought leave to withdraw the said petition impugning the very same order dated 25.07.2018, as recorded in our order dated 06.08.2018.

9. Accordingly, the present petition is dismissed in limine as meritless along with the pending applications.

HIMA KOHLI, J

REKHA PALLI, J

AUGUST 29, 2018/sa

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