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

+ W.P.(C) 9561/2018 & CM APPL. 37201/2018, CM APPL.
46589/2018

SURESH KUMAR BHANDARI

..... Petitioner

Through: Mr. Nidhesh Gupta, Sr. Adv. with Mr.
N.K. Bhatnagar, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondent

Through: Mr. Arun Bhardwaj, Adv. for R-1 &
R-2

Ms. Mini Pushkarna, St. Counsel with
Mr. Akhil Mittal, Adv. for R-3

Mr. Gaurav Dhingra with Mr. Sanjeev
Saroha, Adv. for R-4.

Mr. Ravinder, Law officer with Mr.
Pawan Jolly.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

19.11.2018

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1. Learned senior counsel for the petitioner submits that in terms of the last order, the petitioner has joined his posting as Special Secretary (Urban Development) on 16.11.2018. Learned senior counsel submits that the only issue remains with regard to the petitioner being relieved by the North Delhi Municipal Corporation (NDMC).

2. While the petitioner was serving with the NDMC on deputation, on 15.06.2018, he was transferred to the Union Territory of Goa. He was relieved by the GNCTD on 16.07.2018. The NDMC, where he was serving on deputation, released him on 30.07.2018 with effect from 31.07.2018.

3. The petitioner had approached the Tribunal being aggrieved by his said transfer. On 01.08.2018, in O.A. No. 2882/2018, the Tribunal passed an order that the petitioner's representation ventilating his grievance vis-a-vis his transfer be decided by the concerned authority within two weeks from the said date. The order of transfer in so far as it related to the petitioner was directed not to be enforced for a period of 2 weeks.

4. The petitioner submitted his re-joining to the NDMC on 01.08.2018 itself. In this light the submission of learned senior counsel is that unless he is relieved by the NDMC, there may be a dispute with regard to the period between 01.08.2018 and 16.11.2018 when he has rejoined as Special Secretary, U.T.

5. Ms. Pushkarna submits that the representation of the petitioner was rejected by the Government of India, Ministry of Home Affairs on 21.08.2018 and, thereafter, another officer took over. She submits that another officer took over the charge – earlier handed by the petitioner in the NDMC on 12.09.2018. She submits that the petitioner should have joined the post as per his transfer order after rejection of his representation on 21.08.2018. She further submits that even after re-joining the post on 01.08.2018 in pursuance of the order of the Tribunal aforesaid, the petitioner actually did not report for work and did not discharged his duties.

6. This position is vehemently disputed by the petitioner. Learned senior counsel for the petitioner submits that there are orders on the files available which could show that the petitioner discharged his duties as Additional Commissioner (Engineering), NDMC.

7. Once the petitioner had re-joined his post in the NDMC on

01.08.2018, before he could comply with the order dated 21.08.2018 passed by the Government of India, Ministry of Home Affairs, he had to be relieved by the NDMC.

8. We fail to understand as to how the NDMC could have proceeded to appoint another officer to the post held by the petitioner on 12.09.2018, without relieving him. Thus, we direct the NDMC to issue a fresh relieving order in respect of the petitioner with effect from 16.11.2018. The relieving orders in terms of this order shall be issued within one week.

9. So far as the aspect of the petitioner discharging/ not discharging his duties as Additional Commissioner (Engineering) after his re-joining the post on 02.08.2018 till 16.11.2018 is concerned, we leave it open to the parties to agitate their positions in appropriate proceedings.

10. Considering the fact that the petitioner's transfer to the Union Territory of Goa stands superseded by his transfer as Special Secretary, GNCTD, in our view the issues raised by the petitioner have become academic and the present petition has become infructuous.

11. The dates already fixed stand cancelled.

12. The petition stands disposed of in the aforesaid terms.

13. Dasti.

VIPIN SANGHI, J

A. K. CHAWLA, J

NOVEMBER 19, 2018

N.Khanna