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

+ **W.P.(C) 11727/2018**

SUJOY BANERJEE

..... Petitioner

Through: Mr. K.S. Prasad and Ms. J. Priyadarshini, Advocates.

versus

SECRETARY & CHAIRMAN, BOARD OF GOVERNORS,
IIFM AND ORS.

..... Respondents

Through: Mr. Ajay Digpal, CGSC with
Mr.R.M. Tripathi, Govt. Pleader for
R-1.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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30.10.2018

1. The petitioner has preferred the present petition to assail the order dated 21.08.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter 'Tribunal') in O.A. No.100/836/2018, whereby, the Tribunal has dismissed the said original application preferred by the petitioner.

2. The petitioner is a member of the Indian Forest Service (IFS) of State of Uttar Pradesh cadre. The petitioner applied in response to an advertisement issued in December 2016 for appointment to the posts of Assistant Professor, Associate Professor and Professor in certain disciplines such as Technical Forestry and Information Technology & Quantitative Techniques on deputation basis. However, the selection process in respect of the said advertisement did not attain finality. Another advertisement was

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issued on similar lines on 21.02.2017, which, once again did not attain finality. The third advertisement was issued on the same lines on 14.07.2017 in respect whereof the selection process was not yet completed when the dispute arose, which shall be taken note of a little later. It emerges that the petitioner had also opted to be sent on deputation under the Central Staffing Scheme, inasmuch as he had applied for the post of Deputy Inspector General of Forests, Department of Land Resources. He was offered the said central deputation for a period of five years on 20.12.2017. The petitioner, it appears, on second thought, was more interested in pursuing his application made in response to the advertisement dated 14.07.2017 taken note of hereto before. In response to the offer made to him qua his application for the post of DIG, he represented that his wife was posted in Bhopal and he would therefore like to be posted in Bhopal for the convenience of the family. Since the petitioner did not join the deputation post of DIG under the Central Selection Scheme, he was debarred for a period of five years from being considered in terms of the said Scheme itself w.e.f. 20.12.2017 vide order dated 28.06.2018, which was assailed by the petitioner before the Tribunal. In his original application, the petitioner also sought the relief of initiation of disciplinary proceedings against respondent No.3 Sh. Tejinder Singh under Rule 14 of the CCS (CCA) Rules on the ground that the said officer acted *mala fide* against the petitioner. The Tribunal has not found any merit in the said original application and consequently dismissed the same.

3. The admitted position is that the petitioner had himself applied for the post of DIG for which he was offered appointment and was required to join

on 20.12.2017. It appears, he was also interested in exploring the possibility of going on deputation to the post of Professor and, consequently, had also applied against vacancies which were advertised firstly in December 2016; secondly in February 2017 and finally on 14.07.2017. It is only when the appointment as DIG on deputation basis came, he sought to resile and expressed his desire not to join the said post, and to pursue his application for the post of Professor.

4. If the petitioner was so minded, he should have withdrawn his application for the post of DIG in time, so that other eligible candidate(s) could be considered and appointed. It is not in dispute that the discipline under the Central Staffing Scheme requires the officer, who is offered appointment under the said Scheme, to join the post offered, failing which, it results in debarment for five years. Since the petitioner did not join the post of DIG, he was visited with the order dated 28.06.2018 debarring him from consideration for central deputation for a period of five years w.e.f. 20.12.2017.

5. The submission of learned counsel for the petitioner is that had the selection process in respect of the advertisements issued in December 2016 and February 2017 been complete in time, the petitioner would not have faced the consequence of being subjected to the order dated 28.06.2018. He submits that the process initiated by order dated 14.07.2017 was still not complete. He further submits that the grievance of the petitioner was with regard to the non-culmination of the selection process initiated by the aforesaid three advertisements.

6. We do not find any merit in the submissions of the learned counsel for

the petitioner. Merely because selection processes were started vide advertisements issued in December 2016; February 2017 and July 2017, the same do not vest any right in the petitioner to claim that the same should culminate in appointments being made. Mere issuance of advertisements does not tantamount to a definite representation on the part of the Government that the appointment(s) against the advertised posts would be made. The petitioner should have known that such process may, or may not, ultimately fructify and, even if the process does come to fruition, he may or may not get selected. The relevant aspect of the matter is that the petitioner himself had applied for the post of DIG, and he did not withdraw his application in time before his appointment. He, therefore, led the respondents to undertake the process of selection by including his candidature. The petitioner, it appears, wanted to sail in different boats at the same time and when he was offered the post of DIG, on second thoughts, he did not accept the offer of appointment to the said post. So far as the allegations of *mala-fides* against respondent No.3 are concerned, the Tribunal has found that there is absolutely no basis for the same. It is well settled that personal *mala-fides* against an individual have to be specific and detailed. Even before us, no submission in this regard has been made. Thus, we find no merit in the submissions of the petitioner.

7. However, considering the circumstances of the case, we are of the considered view that the petitioner should not be visited with any adverse consequences on account of his having impleaded respondent No.3 in original application and the allegations made against respondent No.3. It appears to us that though the said action of the petitioner was erroneous, it should not reflect

on his otherwise meritorious service.

Petition stands dismissed in the above terms.

VIPIN SANGHI, J

A. K. CHAWLA, J

OCTOBER 30, 2018

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