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

+ W.P.(C) 12126/2018 & CM No. 47084/2018

LT. COL. T. THIRUPATHI (RETD.) Petitioner

Through: Mr T. K. Joseph, Advocate.

versus

UNION OF INDIA & ANR Respondents

Through: Ms Shiva Lakshmi, CGSC and Mr
Yogesh, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **15.11.2018**

1. The petitioner has filed the present petition impugning the decision of respondent no.2 (hereafter 'DGR') to disempanel the petitioner from its list of empanelled security agencies.
2. The principal allegation against the petitioner is that he has not complied with the relevant guidelines, which require the petitioner to ensure that atleast 90% of the security guards employed by him are ex-servicemen (ESM).
3. The petitioner was sponsored to provide security services to ESIC Model Hospital, Rajaji Nagar, Bangalore ('the Employer'). The petitioner claims that he had deployed 95 guards at the ESIC Model Hospital. Out of the aforesaid guards, 20 guards were women (as required by the Employer), 51 guards were ESM and 24 guards were Ex-Central Armed Police Force personnel (Ex-CAPF). According to DGR, the Ex-CAPF guards could not

be considered as ESM and, therefore, the petitioner had fallen foul of the relevant guidelines inviting the punitive measure as imposed on him.

4. Ms Shiva Laxmi, the learned counsel appearing for the respondent states that show cause notices were issued to the petitioner in this regard and the petitioner had responded to the same. She has handed over a communication dated 25.06.2018 whereby the petitioner was informed that he had been disempanelled from the active list of DGR empanelled security agency for violation of DGR guidelines. She states that the said order was issued after considering the petitioner's contention.

5. One of the explanations provided by the petitioner for failing to employ ESM was that the Employer (ESIC Model Hospital, Rajaji Nagar, Bangalore) had insisted that the guards employed by the previous security agency be taken over by the petitioner. The learned counsel for the petitioner has also handed over an affidavit issued by one Subedar Major Jayaraj, Security Supervisor with the Employer confirming the petitioner's statement and affirming that oral instructions were issued to the petitioner to employ the guards, which were employed with the security agency from whom the petitioner had taken over.

6. It is the petitioner's case that he was compelled to take over the guards employed by previous security agency and he had no option but to employ Ex-CAPF guards. The petitioner also states that Ex-CAPF guards ought to be considered at par with ex-servicemen.

7. In addition, it is submitted by the learned counsel for the petitioner that the Employer has now permitted the petitioner to disengage the Ex-CAPF guards and the petitioner will comply with the requirement of ensuring that all male security guards are ESM.

8. A plain reading of the order dated 25.06.2018 passed by DGR indicates that it is an unreasoned order. It does not indicate that any of the explanations of the petitioner were considered. In view of the above, this court considers it apposite to set aside the impugned order dated 25.06.2018 and remand the matter to DGR to consider afresh after affording the petitioner an opportunity to be heard.

9. The petition is disposed of in the above terms.

VIBHU BAKHRU, J

NOVEMBER 15, 2018

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