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

+ W.P.(C) 12896/2018 with CM APPL. 49980-49981/2018
RAJENDRA SINGH Petitioner

Through: Mr. K.K. Patra, Advocate.

versus

UNION OF INDIA & ANR Respondents

Through: Mr. Amit Mahajan, CGSC with
Mr.Dhruv Pande, Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **06.12.2018**

After examining the decision of this Court in *Suresh Sharma v. NTRO through its Chairman & Ors.*, WP(C) 3937/2017, 3948/2017 and 3950/2017 decided on 18.08.2017, wherein this Court considered the judgment of the Supreme Court in *Union of India v. B.V. Gopinath*, AIR 2014 SC 1988. Counsel for the petitioner states that he does not press his submission with regard to obtainment of the sanction of the disciplinary authority at the time of issuance of the Charge Memorandum. However, he submits that the penalty has been imposed upon the petitioner with the approval of the Minister of State ('MoS') in the PMO, who was not disciplinary authority or the competent authority for the said purpose.

During the course of submissions we have perused the note of DoP&T dated 23.12.2014 at page No.250-252 of the record, which states that the file is submitted for soliciting the kind approval of Hon'ble PM as Minister-in-Charge of DOPT to take a tentative decision of imposing a suitable major penalty on Shri Rajendra Singh, PP/CBI and to consult the UPSC for their statutory advice. It appears that the file was thereafter placed before the MoS (PP), who,

granted approval. There is another note placed on record at Page No.253-254, which is dated 13.01.2015 and the same records that the approval of Hon'ble MoS (PMO) is solicited to take a tentative decision of imposing a suitable major penalty on Shri Rajendra Singh, PP/CBI and to consult the UPSC for their statutory advice. This note has also been approved by MoS on 19.01.2015. It is further pointed out that after obtaining the advice of the UPSC it is the approval of the MoS, which was obtained on 25.05.2015, for imposition of penalty. We direct the respondents to clarify the position as to who was the disciplinary authority and/or competent authority in the case of the petitioner to express the tentative view on imposition of penalty, and to impose penalty upon the petitioner.

We find that this aspect has not been considered by the Tribunal in the impugned order, though raised by the petitioner by way of a written representation. Consequently, we remand the matter back to the Tribunal for consideration of the said specific issue only. The affidavit to be filed by the respondents shall be filed before the Tribunal itself within four weeks from today.

List the matter before the Tribunal on 28.01.2019.

Petition stands disposed of in the above terms along with pending applications.

VIPIN SANGHI, J

A. K. CHAWLA, J

DECEMBER 06, 2018

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