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

% *Date of Judgment : 09th October, 2019*

+ W.P.(C) 1118/2019

THE GOVT. OF NCT OF DELHI AND ORS Petitioners

Through Mr. Naushad Ahmed Khan, ASC with
Mr. Zahid Hanief, Advocate

versus

KAMLESH RANI BHATLA Respondent

Through Mr. M.S. Saini, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

G.S. SISTANI, J. (ORAL)

1. The present writ petition is directed against an order dated 20.03.2017 passed by the Central Administrative Tribunal (the 'Tribunal').
2. In this case, the respondent herein was appointed as an Assistant Teacher on 27.03.1997. On 22.03.2012, the respondent tendered her request for 'technical resignation'. The petitioners acceded to the request of the respondent and accepted the resignation on 29.03.2012 w.e.f. 22.03.2012.
3. The respondent subsequently moved an application on 21.04.2012 requesting the D.D.E., South Zone-23 to allow her to withdraw her resignation and permit her to rejoin duty. Another representation was made by the respondent on 20.10.2012. Reminders were also issued, including a reminder dated 13.01.2014. Having received no response from the petitioners, the respondent filed a writ petition in this Court

which was disposed of on 20.03.2014 with a direction to the petitioners herein to consider and dispose of the request of the respondent by a speaking order.

4. The request of the respondent was rejected on 14.05.2015, which led to the filing of an OA on 04.01.2016. The OA was allowed; which has led to the filing of the present writ petition.
5. Mr. Khan, learned counsel for the petitioners submits that the Tribunal has completely lost track of the fact that the case of the respondent would not be covered by the case of *Nirmal Verma v. MCD & Ors.*, reported at 118 (2005) DLT 665, as in the said case there was no inquiry pending against the said petitioner, while in this case two articles of charge were framed against the respondent, which we reproduce below:

“ARTICLE-I

Smt. Kamlesh Rani Batla, Assistant Teacher while working in Govt. Sarvodya Co-Ed Middle School, J-Block, Sangam Vihar, New Delhi during the year 2010. She actively involved in the political party named ‘Bahujan Samajwadi Party’. Thus she violated Rule 5(1) of CCS Conduct Rules, 1964.

ARTICLE-II

Smt. Kamlesh Rani Batla, Assistant Teacher while working in Govt. Sarvodya Co-Ed Middle School, J-Block, Sangam Vihar, New Delhi during the year 2010 being a government official she organized a meeting for the cadres of a political party (BSP) and has been taking an active part in the meeting i.e. violating the Rule 5(1) of CCS Conduct Rules, 1964, which is unbecoming of a government servant and also violating Rule 3 of CCS(CCA) Conduct Rules, 1964.”

6. Barring the aforestated ground and the distinction between the facts of *Nirmal Verma* (*supra*) and the respondent herein, no other ground has been urged.
7. Mr. Saini, learned counsel for the respondent, however submits that although the articles of charges were framed but no inquiry was conducted. He further submits that even as per the stand taken by the petitioners in the writ petition, more particularly in paragraphs 4 and 5, which we reproduce below, the argument made by the petitioners with regard to charges having been framed cannot be accepted:

“4. After maneuver, artifice and covert involvement of the Respondent in politics, Respondent wittily got herself exonerated and obliterated from charges by way of resignation framed under Rule 3 of CCS(CCA) Conduct Rules, 1964 and Rule 5(1) of CCS (CCA) Conduct Rules, 1964 and inquiry initiated under Rule 14 of CCS (CCA), Rules 1965, thereby, managed to get the vigilance clearance. The vigilance clearance was given graciously considering the request for resignation, however, without anticipating the hoax and nefarious intentions of the Respondents.

5. Once she was exonerated, the respondent, on 21.04.2012, moved an application requested D.D.E., South Zone-23, to withdraw the resignation and allow to join back the duties of Respondent at earliest...”

8. We have heard the learned counsels for the parties and have considered their rival submissions.
9. The respondent was appointed as an Assistant Teacher on 27.03.1997. She tendered her technical resignation on 22.03.2012 which was accepted on 29.03.2012. The respondent thereafter sought to withdraw her resignation. Representations were also made but the same were not

considered and the petitioners finally rejected the request of respondent for withdrawal of rejection by a speaking order passed on 14.05.2015. This led to filing of an OA, which the Tribunal has allowed.

10. According to Mr. Khan, learned counsel for the petitioners, the respondent was involved in political activities and thus violated Rule 5 (1) of CCS Conduct Rules, 1964 and Rule 3 of CCS (CCA) Conduct Rules, 1964. Counsel submits that the respondent, while working as a Government official, took active part in politics. Mr.Khan has also submitted that two articles of charge were framed against respondent and in this backdrop, there is no legal infirmity in the decision rendered by the petitioners in terms of speaking order dated 14.05.2015. Mr.Khan has also highlighted that the case of *Nirmal Verma (supra)* would not apply to the facts of the present case as in the case of *Nirmal Verma (supra)* there was no inquiry pending against the petitioner in that case.
11. Mr.Saini, on the other hand, has submitted that although two articles of charges were framed, since admittedly no inquiry was conducted, that cannot weigh with the Court.
12. In light of the above, we are of the view that although two articles of charge were framed against the respondent but having regard to the clear stand taken in the petition, it leaves no room for doubt that no inquiry was conducted against the respondent and even vigilance clearance was granted to her. Having regard to the fact that no inquiry was in fact initiated against respondent, the case of the respondent would be covered by the decision rendered in the case of *Nirmal Verma (supra)*. We may note that even at this stage, no material has been

placed before this Court to show that any inquiry is pending against the respondent or that an inquiry was ever held against her.

13. Accordingly, no ground is made-out to entertain the writ petition. The writ petition is accordingly dismissed.

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14. The application is dismissed in view of the order passed in the writ petition.

G.S. SISTANI, J

ANUP JAIRAM BHAMBHANI, J

OCTOBER 09, 2019

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