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

+ LPA 118/2019 & CM APPL. 8195/2019

GP CAPT AW THOMAS (RETD.) & ANR Appellants

Through: Mr. A.K. Aggarwal, Adv.

Versus

UNION OF INDIA & ORS Respondents

Through: Mr. Dev P. Bhardwaj, CGSC with
Ms. Anubha Bhardwaj, Adv. for R-1 & 2/UOI.

Mr. Iftekhhar Ahmad, Adv. for R-3.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **20.02.2019**

CM APPL. 8195/2019 (*delay*)

In view of the reasons stated in the application, delay in filing the appeal is condoned.

The application stands disposed of.

LPA 118/2019

1. Seeking exception to an order passed by the writ Court on 12th December, 2018 in W.P.(C)13425/2018, this appeal has been filed by the appellant.

2. Appellant was granted an agency by the Director General (Resettlement) under a Security Agency Scheme on the basis of his being an ex-serviceman. By an order passed on 2nd August, 2018, his name was removed from the list of authorized agencies primarily on the ground that in contravention of Para 16(c) of the Guidelines dated 9th July, 2012, he had paid remuneration in cash to the guards employed by him from October,

paid by ECS/cheque due to compelling reasons, DGR will be intimated accordingly.

(Authority – Amendment issued vide Para 7 of Office memorandum 28(3)/2012/D(Res-I) dated 16 January 2013). ”

5. A perusal of the aforesaid indicates that under normal circumstances payment to security guards is required to be made by ECS or cheque and in case the salary cannot be paid in this manner due to any compelling reasons the DGR will be intimated accordingly. In this case, the appellant has not indicated any compelling reasons, on the contrary, the findings recorded by the competent authority while taking the impugned action and considered by the learned writ Court indicate that the compelling reason offered by the appellant is that the guards had no objection, there were directions from respondent No.3 not to employ guards other than those employed and as the appellant was not permitted to engage guards appointed by the earlier agency due to non-availability of the guards, it is said that the appellant had hired guards on temporary basis for short period as an interim measure and, therefore, he was required to make the payment in cash. This contention has been rejected by the authorities and it has been held that merely because *ad hoc* or temporary arrangements were made, that would not entitle him to deviate from the policy and make payment in cash for the period in question. Holding that there is no credible reason as to why even temporary or *ad hoc* employees could not be paid through the bank channels, the competent authority has rejected the contention of the appellant and while accepting the same the learned writ Court has found the rationale behind incorporating Para 16(c) in the Guidelines are to prevent misuse in the matter of paying to the guards less than the minimum wages and obtain full

receipt and once there were no compelling reasons shown by the appellant, it was held that no interference could be made with regard to the discretion exercised by the competent authority. In doing so, we are of the considered view that the learned writ Court has not committed any error which warrants reconsideration.

6. Accordingly, finding no ground, the appeal stands dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

FEBRUARY 20, 2019

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