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

+ **W.P.(C) 2896/2019**

DUSHYANT KUMAR BAHRI

..... Petitioner

Through: Mr. Jagdish Singh Rajput with Mr.
Rajan Kashyap, Adv.

Versus

UNION OF INDIA & ORS

..... Respondent

Through: Mr. Kirtiman Singh, CGSC.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER
26.03.2019

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C.M. No. 13440/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 2896/2019

The petitioner assails the order dated 03.01.2019 passed by the Central Administrative Tribunal, Principal Bench, New Delhi, (the Tribunal) in O.A. No. 4365/2018. The Tribunal has rejected the petitioner's Original Application wherein he had assailed his dismissal from service by invoking the clause (c) of the Second Proviso to Article 311(2) of the Constitution of India read with Rule 19 (iii) of the CCS (CCA) Rules, 1965 i.e. without holding an inquiry against him.

The petitioner was sent on deputation to Ministry of External Affairs on 20.07.2015. He was transferred in the Indian High Commission Islamabad in Pakistan on 29.02.2016. An incident took place while the petitioner was posted at Islamabad. The petitioner has conveniently not disclosed much about the said incident and he merely states that he was kidnapped by a milk supplier to the employees of the Indian embassy in collusion with the ISI of Pakistan, and he was confined in a dark room with two beautiful ladies who are stated to be the agents of ISI, on 22.11.2017. He claims that he was tortured and inquired about the background of Kulbhushan Jadhav, the Naval Officer who has been sentenced to death in Pakistan. He also claims that he was beaten and was threatened that he would be killed in the same manner as one Pakistani embassy official in New Delhi was killed by RAW of India. He claims that finding no useful purpose of detaining him, he was released.

Before the Tribunal, the respondent produced the confidential record and a perusal of the impugned order shows that the Tribunal has examined the same. The Tribunal has found the dismissal of the petitioner, without holding the departmental enquiry –since the same is not found expedient, to be completely justified.

The submission of learned counsel for the petitioner is that in Judicial Review, the Court can look into the material on the basis of which the President has taken action under clause (c) of Second Proviso to Article 311 (2) of the Constitution of India. There can be no dispute with this proposition. The Tribunal has already undertaken the said exercise in Judicial Review, and we do not consider it necessary to duplicate the said exercise.

We do not find any merit in this petition.
Dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

MARCH 26, 2019/ *N.Khanna*