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

+ **W.P.(C) 3828/2019**

MOHD. ASIF & ANR

..... Petitioners

Through: **Mr. M.K. Bhardwaj, Advocate.**

versus

**SOUTH DELHI MUNICIPAL CORPORATION
& ORS**

..... Respondents

Through: **Mr. Kunal Vajani, Standing Counsel
and Mr. Paras Anand, Mr. Jayant
Rastogi & Mr. Jaibir Sethi, Advocates
for SDMC.**

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER
12.04.2019

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1. Issue notice. Learned counsel for the respondent/ SDMC accepts notice.
2. The petitioners assail the order dated 29.03.2019 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT/ Tribunal) in O.A. No.602/2014. The Tribunal has rejected the said Original Application preferred by the petitioners. In the Original Application, the petitioners had assailed the order dated 30.01.2014, whereby the respondents had withdrawn the promotion given to the petitioners in the year 2007 & 2009 on the ground that they had concealed the fact that an FIR had been

registered against them in the year 2002. The plea of the petitioners was that they had been discharged in the said proceedings and they also contested the respondents' stand that the respondents were not aware of the pendency of the FIR.

3. A perusal of the impugned order shows that apart from recording the submissions of the parties, the Tribunal has undertaken no exercise of examining those submissions by application of mind. We have repeatedly come across such like orders recently passed by the same bench of the Tribunal and have remanded the matters back to the Tribunal for re-consideration on merits.

4. We may refer to our order dated 09.04.2019 in W.P.(C) 3617/2019 & W.P.(C) 3620/2019, wherein we had observed:

“4. A perusal of both the impugned orders shows that there is absolutely no application of mind displayed by the Tribunal. The orders are unreasoned and do not record or deal with the submissions of the petitioners/ applicants or even the respondents. The Tribunal has to appreciate that it is exercising original jurisdiction. It is expected to carefully deal with all the submissions raised before it by reference to the facts, the submissions and the case law. Its application of mind can be demonstrated only by incorporation of its process of reasoning in the decision making process.

5. Unfortunately, we have earlier also come across orders passed by the same bench of the Tribunal in W.P. (C) No. 3487/2019 titled Shivpal Singh Vs. Central Bureau of Investigation and Anr., decided on 05.04.2019. We have set aside the order passed by the Tribunal in the said case and remanded the case back for re-hearing and re-consideration on merits with a direction to the Tribunal to ensure that properly

reasoned order is passed by it. That order was also directed to be communicated to the Chairman of the Tribunal for compliance.

6. We, accordingly, set aside the impugned orders in the aforesaid writ petitions and remand the cases back to the Tribunal for re-hearing and re-consideration. We again emphasize that the Tribunal should deal with the matter more seriously and the orders passed by it should not reflect a sense of casualness in the matter of dealing with the submissions of the parties. A litigant, who approaches the Tribunal, goes to the Tribunal in the hope that he would be granted a fair and complete hearing and his submissions would be dealt with competence and due application of mind. No Judicial Officer should forget his obligation of his calling and the fact that he is answerable to the litigant while dealing with his case.”

5. We, therefore, set aside the impugned order and remand back the matter to the Tribunal for re-consideration. The parties shall be heard; their submissions recorded and appropriately dealt with by the Tribunal while passing the final decision. We make it clear that we have not expressed any opinion on the merits of the case.

6. The parties shall appear before the Tribunal on 29.04.2019.

7. The petitioners have submitted that the matter may not be remanded back to the Tribunal. We are not inclined to examine the pleas of the petitioners for the first time in these proceedings. This Court is exercising its jurisdiction of judicial review and, for that purpose, it is necessary that the order passed by the Tribunal should be properly reasoned, which in the present case, it is not.

8. Interim order operating in favour of the petitioners, if any, during the

pendency of the Original Application shall stand restored.

9. The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

REKHA PALLI, J

APRIL 12, 2019
B.S. Rohella