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

+ W.P.(C) 5169/2019

COL SURESH KUMAR JOSHI (RETD.) Petitioner

Through: Mr Rajesh Yadav and Ms Ruchira,
Advocates.

versus

UNION OF INDIA AND ANR. Respondents

Through: Mr Dilbag Singh, Sr. CGC and Mr
Srivats Kaushal, Advocates for R-1
and R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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13.05.2019

CM No.22906/2019

1. Allowed, subject to all just exceptions.

W.P.(C) 5169/2019 & CM No.22905/2019

2. Issue notice. The learned counsel appearing for the respondents accepts notice.

3. The petitioner has filed the present petition, *inter alia*, impugning a communication dated 12.03.2019 (hereafter 'the impugned communication') informing the petitioner that his security agency – Suresh Kumar Joshi Security Agency has been dis-empanelled. The said punitive action was taken against the petitioner on account of the petitioner violating the provisions of the Office Memorandum dated 09.07.2012.

4. The Office Memorandum clearly, specifies that the ESM Security

Agencies would be paid service charges at the rate of 14%. Undisputedly, in terms of DGR Guidelines, the petitioner was not permitted to quote service charges below 14%. However, the petitioner failed to adhere to the said condition and had quoted 9% service charges in a tender invited by Indian Drugs Pharmaceutical Limited.

5. A show cause notice dated 30.01.2019 was issued to the petitioner. The petitioner responded to the said cause notice by a letter dated 06.02.2019 expressing his willingness to leave the contract in question and for the same being awarded to the senior most agency. A plain reading of the impugned communication indicates that the order dis-empanelling the petitioner has been passed on the assumption that the petitioner had failed to submit a response to the show cause notice. This is erroneous as the petitioner had responded to the said show cause notice by a letter dated 06.02.2019.

6. In view of the above, the impugned communication is set aside. The respondents are directed to consider the petitioner's reply to the show cause notice and pass a fresh order after affording the petitioner an opportunity of hearing.

7. The petition is disposed of in the aforesaid terms. The pending application is disposed of.

8. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

MAY 13, 2019
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