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

+ **W.P.(C) 8178/2019**

S. K. VERMA

..... Petitioner

Through: Mr. J.K. Singh with Mr. Varun
Bhadola, Advs. with petitioner in
person.

versus

UNION OF INDIA & ORS.

..... Respondent

Through: Mr. Ravi Prakash with Mr. Farman
Ali, Advs. for R-1.
Mr.Gautam Narayan, Adv. for R-2
and R-3.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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29.07.2019

C.M. Nos. 33883, 33884/2019

Exemptions allowed, subject to all just exceptions. The applications stand disposed of.

W.P.(C) 8178/2019 & C.M. No. 33882/2019

Learned counsel for the respondents, who appear in advance notice point out that the issue raised by the petitioner, inter alia, that he is a Group B officer and his disciplinary authority is not the President of India has been

raised by the petitioner in another Original Application being O.A. No. 762/ 2019 preferred before the Kolkata Bench of the Tribunal.

The said Original Application has been preferred against the penalty order imposed and issued against the petitioner. Learned counsel for the petitioner does not dispute this position. He, however, submits that the Tribunal has proceeded to dismiss the Original Application on an incorrect premise that the petitioner had stated in paragraph 4.5 of the Original Application that he is a Group A Class Officer.

Mr. Singh points out that the Original Application had been amended to state that the petitioner was a Group B officer and this amendment, though allowed, had not been taken note of by the Tribunal while passing the order dismissing the original application.

The petitioner is guilty of suppression of relevant and material facts. Normally, this would call for dismissal of the writ petition, since the petitioner does not appear to have come to this Court with clean hands. However, we are inclined to take a lenient view and to entertain this petition subject to terms. Learned counsel for the petitioner, on instructions, submits that the petitioner is willing to be subjected to terms as this Court may consider appropriate to prescribe.

In view of the aforesaid, subject to payment of costs of Rs. 30,000/- with the Delhi High Court Advocates Welfare Fund within one week, we issue notice. Notice is issued by learned counsel for the respondents.

Considering the fact that the petitioner's aforesaid plea with regard to competence of the disciplinary authority (in view of the fact that he was a Group B officer) has not been examined by any judicial forum, and the said plea has been raised by the petitioner in his aforesaid Original Application,

which is pending consideration before the Kolkata Bench of the Tribunal, we dispose of this petition by observing that the impugned orders passed by the Tribunal in O.A. No.2032/2013 and in the Review Application i.e. R.A. No. 70/2018 shall not come in the way of the petitioner in raising his aforesaid plea, and the Tribunal shall decide the case on merits.

The contention of the parties are left open.

This order shall take effect provided the petitioner deposits the costs.

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

JULY 29, 2019

N.Khanna