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

Date of Decision: 15.11.2019

+ **W.P.(C) 11918/2019 & CM APPL. Nos. 48862-63/2019**

GOVT. OF N.C.T OF DELHI Petitioner
Through : **Mr. V. Balaji and Ms. Neha Singh, Advocates.**

versus

SHRI J. M. SHARMA (DEAD)
THROUGH LRS Respondents
Through : **None.**

CORAM:
HON'BLE MR. JUSTICE G.S. SISTANI
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

G.S.SISTANI, J. (ORAL)

CM APPL. No. 48863/2019 (for exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 11918/2019 & CM APPL. Nos. 48862/2019 (for stay)

1. The present petition is directed against order dated 01.03.2018 passed by the Central Administrative Tribunal ('Tribunal'). It may be noted that initially three OAs were filed which were decided by the Tribunal by a common order dated 05.12.2014. Subsequently, the respondent herein filed a Review Application being R.A. No. 133/2015 before the Tribunal which was allowed on 06.09.2017 ; and

the order of 05.12.2014 was recalled and set-aside. The matter was thereafter heard afresh and has been decided vide impugned order dated 01.03.2018.

2. Learned counsel for the petitioner submits that the learned Tribunal has erred in interfering with the quantum of punishment, the domain of which should have been left purely with the Disciplinary Authority, especially when the charge stood confirmed.

3. We have heard learned counsel for the petitioner. The review application was allowed by order dated 06.09.2017; and the Tribunal by order dated 01.03.2018, disposed of the OA, the operative portion of which order reads as under:

“11. We heard the learned counsel for the parties on 15.01.2018. From the perusal of records, it is noticed that the disciplinary authority (Lt. Governor of Delhi), vide his order dated 23.04.2003, had imposed the penalty of reduction of pay by two stages in the time scale of pay with cumulative effect. The operative part of the order reads as under:-

“4. In the totality of facts and circumstances of this case I am of the considered view that the charges have been established against the charged official beyond any doubt. He has committed gross misconduct by acting in an irresponsible manner in total disregard to his responsibilities, with mala fide intent. Keeping in view the fact that Shri J.M. Sharma is to superannuate on 30.04.2003, I feel that the penalty of reduction of pay by two stages in the time-scale of pay with cumulative effect is warranted. I order accordingly.”

xxx

xxx

xxx

“14. From the reading of Rule 11 (v) of the Rules 1965, it is quite clear that the penalty of reduction to a lower stage in the

time scale of pay has to be for a specified period. Unfortunately, the penalty order of the disciplinary authority is completely silent on this issue. Considering the fact that the applicant superannuated on 30.04.2003, the period for this penalty could only be specified from the date of the penalty order (23.04.2003) and till the date of applicant's superannuation (30.04.2003), i.e., for a period of just one week. Consequently, on the date of his superannuation, the impact of the penalty imposed must vanish. The issue of earning any increment in this short period did not arise. Hence, even though there is no mention with regard to earning/postponement of increment in the penalty order, this issue had become irrelevant.

15. In the conspectus, we dispose of this O.A. in the following terms:-

i) The penalty order dated 23.04.2003 passed by the disciplinary authority shall stand modified to the extent that the penalty imposed would operate only for the period from 23.04.2003 to 30.04.2003. Consequently, the pay of the applicant shall get restored on the date of his superannuation, i.e., 30.04.2003.

ii) The pension of the applicant shall be fixed in accordance with (i) supra and he would be entitled to all consequential benefits.

No order as to costs."

4. In our view, there is no infirmity in the view taken by the Tribunal, especially having regard to the fact that in this case charges were framed as far back as in the year 1998 and a final order was passed by the Disciplinary Authority on 23.04.2003.

5. The respondent superannuated in the year 2003. It is brought to our notice that the respondent has since passed-away. In this backdrop of the matter, we feel that the Tribunal has correctly exercised its discretion and since the order of punishment did not specify the

period, accordingly the Tribunal has simply interpreted Rule 11(v) of the CCS(CCA) Rules, 1965 and has restricted the operation of the penalty for the period from the date of the penalty order passed by the Disciplinary Authority until the date of the respondent's superannuation.

6. No ground is made-out for us to interfere with the impugned order.

7. The writ petition and the pending application are accordingly disposed of.

G.S.SISTANI, J

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 15, 2019/j