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

+ **W.P.(C) 16405-07/2006**

GOVT. OF N.C.T. OF DELHI & ORS

..... Petitioners

Through Mrs. Avnish Ahlawat with Mr. N.K.
Singh & Ms. Laveena Arora,
Advocates

versus

ADALAT SINGH

..... Respondent

Through Mr. Arun Bhardwaj, Mr. Nikhil
Bhardwaj & Mr. Abhinav Kaushik,
Advocates

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

29.08.2019

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1. The present petition by the Government of NCT of Delhi is directed against the judgment dated 18th July, 2006 of the Central Administrative Tribunal (CAT), Principal Bench allowing in part OA No. 888/2005 filed by the Respondent.

2. The background facts are that the Respondent was an Assistant Sub-Inspector (ASI) and was posted at Police Station (PS), Gokalpuri. He was admitted to promotion E-I (Executive) (List) with effect from 28th February, 2003, consequent upon the DPC held earlier.

3. The Petitioner was deputed for the upper school training course, which he completed in October, 2003. The Petitioner was awaiting his admission to

W.P.(C) 16405-07/2006

Page 1 of 4

the promotion list E-II and further, actual promotion as Sub-Inspector (SI). The allegation against the Respondent was that on 15th December, 2002 he arrested one Aamir Khan under Section 107/151 Cr PC. He deposited all articles seized at the time of the said search except Rs.230/- in the 'Malkhana' of the Gokalpuri Police Station, New Delhi. Accordingly, an inquiry was held under Rule 16 of the Delhi Police (Punishment and Appeals) Rules, 1980. The Disciplinary Authority (DA) ruled out any malafide on the part of the Respondent. However, the DA awarded the Respondent a major punishment of temporary forfeiture of one year's approved service with proportionate reduction in pay, for the Respondent's negligence in investigation.

4. As far as the Petitioner is concerned, it issued a Show Cause Notice (SCN) dated 14th September, 2004 to the Respondent under Rule 7 (ii) of the Delhi Police (Promotion and Confirmation) Rules, 1980 proposing to remove his name from the list E-1. The Respondent's objections to the SCN was rejected by the order dated 8th April 2005 and his name was removed from the E-1 list.

5. The Respondent approached the CAT with OA No. 888/2005, questioning the SCN dated 14th September, 2004 and the order dated 8th April, 2005 and to seek a declaration that the punishment may be directed as not having any effect on the promotion of the Petitioner. By the impugned order, the CAT held that the removal of the name of the Petitioner from the promotion list E-1 on the ground that he was awarded a major punishment constituted double jeopardy. It was held that the concerned authority had "forgotten and

deliberately oblivious of the final order passed in the departmental enquiry, where it is clearly observed that the misconduct of the applicant does not show any malafide but it is only a failure to carry out the investigation.” It was accordingly held that there was no material available to the authorities to come to a conclusion about the unfitness of the Petitioner to hold a higher rank.

6. Nevertheless, the CAT only partly allowed the application filed by the Respondent. While not interfering with the punishment imposed, it quashed the SCN and the order of removal of the applicant from the promotion list E-1. It was further directed that “in the event his colleagues and juniors are admitted to promotion list E-II and actually promoted he would also be meted out the same treatment and in that event he shall be entitled to all consequential benefits.”

7. When the present petition was heard first on 3rd November, 2006 an interim order was passed staying the order of the CAT. The said interim order was made absolute on 22nd August, 2008.

8. Having heard learned counsel for the parties, the Court is of the view that in the facts and circumstances of the case, the order of the CAT does not call for interference. One reason that weighs with the Court is that the Respondent superannuated in 2008 itself. At this stage, more than 13 years after the impugned order, it would not be in the interests of justice to interfere with the order of the CAT restoring the applicant to the promotion list E-1, as that is not going to have any actual impact on his service, except

for the purposes of determination of the retiral benefits, if any. The monetary implications for the Government, the Court if informed, is also not substantial.

9. Consequently, leaving the question of law raised in the present petition, open for decision in an appropriate case, the petition is disposed of.

10. The interim order stands vacated.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 29, 2019

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