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

+ **W.P.(C) 7701/2016**

DEVENDRA KUMAR GUPTA

..... Petitioner

Through: Petitioner in person.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr Ripu Daman Bhardwaj, CGSC
for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **07.02.2019**

1. The petitioner has filed the present petition, *inter alia*, praying that investigations be conducted to expose the nexus between the respondents. It is the petitioner's case that respondent no. 4 (Sh Ashutosh Tripathi, DG, Postal Services Board) had, with a *mala fide* purpose provided misleading information which led to disciplinary proceedings being initiated against the petitioner. Admittedly, the petitioner has been exonerated of all charges framed against him.

2. The petitioner alleges that the investigation report on the basis of which he was charged, was tampered by respondent no.4. He has premised this allegation on the basis of a copy of the investigation report received by him, pursuant to an application filed under the Right to Information Act, 2005. He submits that the copy of the investigation report as received by him indicates that there were material alterations. It

is contended that in Paragraph 5.1 of the investigation report as submitted by respondent no. 4, had the last sentence omitted, which recommends that the response of the petitioner be sought. The petitioner contends that if a response had been sought by him at the material time, he would not have to face the ignominy of disciplinary proceedings.

3. The respondents have filed a counter affidavit refuting the allegations of tampering any report. It has been explained that references were received from the CE (Civil), Department of Posts, for investigation into a of decision of the EE (Civil), leading to restricting the open tendering system and fair competition of a tender during the 8th call of a tender for work of the Administration Building at FDC, Panaji, Goa. Another reference was received regarding misleading information given by SE (Civil), Postal Civil Circle, Mumbai, leading to the scrapping of a tender on the 3rd call for the works of Administrative Building at EDC, Goa, which had consequently resulted in a higher tender rate.

4. The Civil Wing of the Postal Directorate had requested the Vigilance Division to investigate the same. It is contended that upon a perusal of all the documents, it was felt that there was negligence not only on the part of the SE (Civil) and EE (Civil), but also on the part of the petitioner who was then posted as CE (Civil), Bengaluru. It is stated that the investigation report was forwarded to the Senior DDG (Vigilance) and CVO, DoT (the Department of Telecommunication) as the DoT was the Cadre Controlling Authority. The said report was sent under cover of a letter dated 18.03.2011.

5. It is stated that upon receipt of the said report, the DoT had sent a letter dated 23.03.2011 – a copy of which has been produced – calling

upon respondent no.4 and the CEO to submit the report as per the CVC's circular dated 06.08.2009, along with the recommendations of the CVO, Department of Posts. It is stated that at the insistence of the DoT, the investigation report was prepared in the form as required under the CVC Circular, and was sent to the DoT under cover of a letter dated 20.05.2011. It is stated that Paragraph 5.1 of this report did not contain the sentence recommending that the response of the petitioner be called for. The learned counsel appearing for the respondents explains that the officer so accused is, in any event, given an opportunity to defend the case and, therefore, such recommendation is not necessary in the report submitted as per CVC's Format.

6. It is also affirmed that there was a typographical error in the said report, inasmuch as, the heading of the report incorrectly carried the caption "Annexed with letter No. 16-4/2010 – Vig. Dated 18.03.2011". It is stated that the report was annexed with the letter dated 20.05.2011 and that should have been mentioned in the caption, instead of the letter dated 18.03.2011.

7. This Court is of the view that the discrepancy in the said two vigilance reports placed on record has been adequately explained and no directions for conducting any investigations are necessary.

8. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

FEBRUARY 07, 2019

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