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

+ **W.P.(C) 3882/2017 & CM APPL. 17134/2017**

UNION OF INDIA & ANR

..... Petitioners

Through: Mr. T.P. Singh, Sr. Central Govt.
Counsel for UOI with Lt. Col. Ankur
Garg, SC, E-in-C Branch.

versus

INDIAN DEFENCE SERVICE OF ENGINEERS

ASSOCIATION & ANR

..... Respondents

Through: Mr. V.K. Garg, Sr. Advocate with
Mr. Neeraj Sharma and Ms. Noopur
Dubey, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

08.01.2019

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1. The Union of India through its Secretary, Ministry of Defence and the Engineer-In-Chief, Kashmir House, Army Headquarters, New Delhi had preferred the present writ petition to assail the order dated 07.11.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (in short 'Tribunal') wherein the Tribunal issued the direction that cadre review has to be mandatorily held after every five years and there is no escape from the same.

The Tribunal had directed as follows:-

“23. In view of the discussion above, we find the cadre review has to be mandatorily held after every five years and there is no escape from the same; and that maintaining

balance between the different components is a matter of policy that lies within the Government domain. Taking recourse to others subterfuge like not holding the cadre review is only means of postponing the crises and makes the situation worse. It leaves a whole lot of dissatisfied staff behind. Since the decision of holding a cadre review after one year as per the meeting of Cadre Review Committee on 22.09.2011 has lapsed on account of delay by the inaction of the respondents, we quash and set aside the order dated 05.02.2015. Accordingly, we allow the OA with directions to the respondents that the 4th Cadre Review Committee should be notified within a period of three months from the date of production of a certified copy of this order. The MAs also stand disposed of. No costs.”

2. When the writ petition first came up before this Court on 05.05.2017, a statement was made on behalf of learned counsel that the petitioners shall definitely undertake the next cadre review in the year 2018 considering the fact that the decision of the Cadre Review Committee dated 22.09.2011 (wrongly typed as 22.09.2011) was implemented on 07.06.2013. We directed the Engineer-In-Chief to file his own affidavit of undertaking in this respect.

The direction issued to the petitioner was as follows:-

“Let the Engineer-in-Chief file his own affidavit of undertaking in this respect. The affidavit should state as to by which date the cadre review shall be undertaken; and should also disclose the schedule for conducting preparatory steps for holding the cadre review; and for convening the meeting of the Cadre Review Committee. The affidavit be filed within three weeks.”

3. Notice was issued in the petition subject to compliance of the aforesaid requirement. The respondents, on instructions, stated that they

shall not press the contempt petition in the meantime. From then on, several orders have been passed by this Court from time to time. Even though the year 2018 has come and gone, the cadre review has in fact not been undertaken and even the latest affidavit filed by the petitioner shows that the petitioner is simply dragging its feet.

4. In these circumstances, we are of the view that the present petition is liable to be dismissed since the petitioner has not complied with its initial undertaking to undertake cadre review in the year 2018.

5. Petition is accordingly dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

JANUARY 08, 2019

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