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

+ W.P.(C) 6386/2017

GOVT OF NCT OF DELHI AND ORS Petitioners

Through: Ms. Avnish Ahlawat & Mr. Nitesh
Singh, Advocates.

versus

VIVEK KUMAR Respondent

Through: Mr. Pardeep Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

15.04.2019

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After some arguments, learned counsel for the respondent states that in view of Explanation 2 to Rule 12 of the CCS (CCA) Rules, the respondent gives up the challenge to initiation of departmental proceedings on the ground of competence of the authority which initiated such proceedings and appointed the Inquiry Officer and the Presenting Officer. He submits that the petitioner had raised other pleas in the Original Application which have not been gone into by the Tribunal, including the plea that the first inquiry was not void *ab initio* and, therefore, the respondent could not have been proceeded with after his exoneration in the first inquiry.

We find that the Tribunal has not examined the aforesaid aspect. Accordingly, we set aside the impugned order. We also hold that the inquiry

in question had been initiated by the Competent Authority and the appointment of the Inquiry Officer and the Presenting Officer has been made by the Competent Authority in the light of the Explanation 2 to Rule 12 of the CCS (CCA) Rules. We remand the case back to the Tribunal for consideration of all other pleas of the respondent applicant.

The parties shall appear before the Tribunal on 08.05.2019.

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

REKHA PALLI, J

APRIL 15, 2019

B.S. Rohella