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

Date of decision: 17th February 2020

+ W.P.(C) 13697/2019 and CM APPL.55181/2019

UNION OF INDIA & ORS.

..... Petitioners

Through: Ms. Vartika Sharma, Advocate

versus

SANGEETA SINGH

..... Respondent

Through: Mr. M.K. Bhardwaj, Advocate with
Ms. Prabjot Kaur, Advocate

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)

1. The present writ petition assails order dated 03.09.2019 rendered by the Central Administrative Tribunal ('Tribunal', for short) in O.A. No.1243/2014.

2. The respondent was employed with the petitioner as a Data Entry Operator. She was suspended on 08.09.2010 and a Charge Memo was issued to her on 16.10.2010. In response thereto, the respondent filed a written statement denying all charges levelled against her. Dissatisfied with the explanation so rendered by the respondent, an Inquiry Officer was appointed on 03.02.2011 and a preliminary hearing was held. Thereafter on 04.03.2011, the respondent pleaded guilty ; consequent to which her

suspension was revoked w.e.f 09.03.2011 and an order of 'compulsory retirement' was passed on 25.10.2011.

3. Aggrieved by the order of compulsory retirement, the respondent filed a statutory appeal, which was rejected ; and thereafter the O.A. was filed.

4. The respondent submitted before the Tribunal that the officials of the petitioner had assured her that if she pleads guilty, a minor punishment would be awarded to her ; and thus, she was coerced and mislead into admitting her guilt. The Tribunal has allowed the O.A., with liberty to the petitioner to conduct a fresh enquiry from the stage that the Inquiry Officer was appointed, which has lead to the filing of the present writ petition.

5. The articles of charge framed against the respondent are reproduced below:-

"That the said Smt. Sangeeta Singh while functioning as Date Entry Operator, Directorate General: Doordarshan during the period 09.01.2006 to 08.09.2010, failed to perform the duties assigned to her, exhibited indiscipline in discharge of duties and habitually remained absent from the place of work. She has thus exhibited lack of devotion to duty and her conduct is unbecoming of a Government employee.

Smt. Sangeeta Singh has thus violated the provision of Rule 3(1)(ii) & 3(i)(iii) of Central Civil Services (Conduct) Rules, 1964."

6. In her written statement the respondent had narrated how she had been harassed and victimized by being transferred several times in her 16 years of service. However, before the Inquiry Officer, she pleaded guilty and submitted a handwritten apology for the conduct alleged against her.

The finding of the Inquiry Officer was based solely on the respondent pleading guilty and the submission of a handwritten apology by her. The relevant portion of the Inquiry Report is extracted below:-

"Smt. Sangeeta Singh, Charged Officer attended the hearing on the said date. She was asked by the undersigned whether she has received the charge sheet and understood the charges framed against her. She replied positively.

She was also asked whether she pleads guilty of all the charges. She replied that she pleads guilty of the charges and apologized for the same.

The Presenting Officer also agreed to not to prolong the proceedings in view of the charged officer pleading guilty of all the charges made against her in the charged sheet and not to examine the witness. The daily order sheet dated 04.03.2011 is Annexure-VII.

Conclusion:

Since the charged officers pleaded guilty of all the charges framed against her vide the charge sheet dated 16.10.2011, the undersigned feels that there is no need to prolong the disciplinary Proceeding and therefore concludes the Inquiry. An Inquiry report is submitted to the Disciplinary Authority for decision."

7. We also reproduce para 5 of the order of the Tribunal, which reads as under:-

"5. On the basis of the said inquiry report, the disciplinary authority imposed a punishment of compulsory retirement from service vide order dated 25.10.2011. The appeal filed by applicant was also dismissed by the appellate authority vide order dated 22.02.2012 by a cryptic order. The said order is extracted below:-

“2. The appeal of Smt. Sangeeta Singh, Data Entry Operator, was considered by the appellate authority. The appellate authority after going through the entire record and careful consideration has rejected her appeal. This is hereby communicated to her for information.”

The counsel for the applicant vehemently and strenuously contended that the applicant had filed a detailed reply to the memo. dated 16.10.2010, but however, because of the influence and advised of the inquiry officer to the effect that if she was to plead guilty, she would be let off only by giving some warning and if she were to contest in the enquiry, she would be facing much more trouble and on the said advise, the applicant did not contest her case before the said inquiry officer and she apologized and admitted the guilt and this aspect of the influence and the assurance of the inquiry officer, the applicant has narrated in her appeal dated 16.11.2011. The relevant portion of her appeal is extracted below:-

“.....I was persuaded, rather influenced by the Inquiry Officer Ms. Sunia Bharal, DDA that I must burry all the hatchets and plead guilty to close the chapter; as because it is very difficult to fight with a crocodile remaining in the water. She also assured me that noting much would happen against me and I might be left with a simple warning or likewise. I succumbed to her pressure and agreed accordingly.....”

8. It was argued before the Tribunal that in view of the fact that the respondent was coerced into making a statement accepting guilt, the Inquiry Report was not legal or valid and the CCS (CCA) Rules 1965 had not been complied with.

9. Learned counsel for the petitioner submits that there were allegations

of gross insubordination against the respondent for many years and in fact a lenient view has been taken, else it is a fit case for 'dismissal from service'. She further submits that the story of coercion and influence being canvassed by the respondent is an afterthought. The respondent was not influenced in any manner ; she had made her statement voluntarily ; and had accepted the order of compulsory retirement in the form of a handwritten communication as well.

10. Mr. M.K. Bhardwaj, learned counsel appearing for the respondent has however submitted that no person in a normal state of mind would ever plead guilty to serious charges which were levelled against her, after filing a written statement wherein the respondent had denied each and every allegation. He also submits that on account of her good work, the respondent was given letters of appreciation, including a cash reward, copies of which have been filed from pages 81 to 84 of the paper book. It is urged that the respondent has been victimized by a particular officer.

11. We have heard the counsel for the parties and have examined the order passed by the Tribunal.

12. The record shows that the respondent had admitted her guilt and tendered a hand-written apology, which was the sole basis on which the Inquiry Report was submitted. It does not require much to appreciate that the respondent would never have tendered such apology, had she known that serious consequences would follow. This lends credence to the respondent's stand that she had been assured of some minor punishment, if she admitted her guilt. Even otherwise, no prejudice would be caused to the petitioner if they hold a fresh inquiry in terms of the order of the Tribunal, especially

when the respondent has about 10 more years of service remaining. On the other hand, serious prejudice would be caused to the respondent's rights if the extremely harsh punishment is upheld merely on a supposedly voluntary admission of guilt.

13. At this stage, Ms. Vartika Sharma, learned counsel for the petitioner submits that since after all these years witnesses would not be available, so it would not be practical or useful to hold a fresh inquiry. In the circumstances, the petitioners submit that the present petition may be disposed of by reducing the punishment awarded to the respondent to whatever the court may consider fair and just. The respondent is also agreeable to this course of action.

14. In the above circumstances, the order of penalty is modified to reduction to a lower time-scale of pay by one stage, for a period of two years from the date of award of punishment *i.e.* 25.10.2011, without cumulative effect and without adversely affecting the respondent's pension. The petitioner's entitlements for the intervening period would be decided as per rules.

15. The order be complied with, within a period of four weeks.

16. The petition stands disposed of in above terms.

17. Pending application also stands disposed of.

G.S.SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 17, 2020

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