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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 128/2020, C.M. Appl.No. 8890-8891/2020
COL (RETD) T S RAGHAV & ANR Appellants
Through: Mr.A.K. Bhardwaj, Ms. Jagrati Singh,
Advocates
versus
MAHESH KUMAR & ANR Respondents
Through: Mr. M.A. Niyazi, Ms. Nehmat Sethi,
Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **04.03.2020**

C.M. Appl.No. 8891/2020 (exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

LPA 128/2020, C.M. Appl.No. 8890/2020 (Interim relief)

1. The appellant is aggrieved by an order dated 27.02.2020 passed by the learned Single Judge in Cont. Cas (C) No.530/2018 (Annexure A/1), filed by the respondent with a grievance that the appellant has violated the undertakings given and recorded in the orders dated 20.03.2018 and 22.03.2018, passed in WP (C) No. 2669/2018 (Annexure A14 and A15).
2. We may note that in the impugned order dated 27.02.2020, the court has held as follows:

“The learned counsel for the respondent submits upon instructions that the anomalous situation brought about by the removal from service of Mr. Mahesh Kumar despite two undertakings before this Court stating that

no adverse action shall be taken, was not deliberate but due to misconstruing this Court's order. He states that the officers concerned have the highest regard for the directions of this Court and would rather err on the side of caution than to breach this Court's order. He states that an appropriate affidavit of apology shall be filed within two weeks from today.

Admittedly, from among 23 employees Mr. Mahesh Kumar is the only person who was singled out for termination of services. The anomalous situation shall be rectified before the next date by reinducting Mr. Mahesh Kumar into service, with continuity and all consequential benefits. His salary and other emoluments too shall be paid.

The learned counsel for the petitioner submits that Mr. Mahesh Kumar is ready and willing to join duty right away. He shall report before the Registrar of the respondent for work on 04.03.2020. Payments shall be made to him directly into his bank account. Monies already paid to him shall be set off against monies due.

List on 17.03.2020.

A copy of this order be given dasti to the learned counsel for the parties under the signatures of the Court Master."

3. It is also relevant to note that on 02.03.2020, the appellant No.1 had filed an affidavit stating *inter alia*, that the same was in terms of the order dated 27.02.2020, i.e., the impugned order and had tendered an unconditional and unqualified apology to the court and prayed for leniency.

4. When the contents of the aforesaid affidavit have been pointed

out by Mr. Nyazi, learned counsel for the respondent, to urge that the present appeal is not maintainable, Mr. Bhardwaj learned counsel for the appellant states that the apology that has been tendered in the said affidavit, is a qualified one.

5. If that is the stand of the appellant, then quite clearly, the apology tendered to the court on 27.02.2020, was only lip service. The appellant is taking shifting stands before different courts, making a mockery of the court proceedings. As the matter is still pending before the learned Single Judge, we decline to entertain the present appeal. A copy of this order shall be placed before the said court for perusal.

6. The appeal is dismissed alongwith the pending applications.

HIMA KOHLI, J

ASHA MENON, J

MARCH 04, 2020

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