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

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Date of decision: 07.09.2020

+ W.P.(C) 6035/2020

PRASANNA PRAKASH PANDA Petitioner

Through: Mr. Sudarshan Rajan, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through:

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JYOTI SINGH, J. (ORAL)

CM APPL. 21692/2020

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 6035/2020 & CM APPL. 21691/2020

1. Present petition has been filed by the Petitioner seeking quashing and setting aside of the final order dated 31.07.2020 passed by the Disciplinary Authority whereby major penalty of 'Dismissal from service which shall ordinarily be a disqualification for future employment under the Government' has been imposed on the Petitioner.

2. It is undisputed that under Rule 55A of India Infrastructure Finance Company Ltd. (Staff) Service Regulations, 2007 (hereinafter referred to as 'Regulations'), there is a remedy of Appeal provided against the

penalty imposed on the Petitioner. Rule 55A of the Regulations reads as under:

"55A: Time limit for disposal of Appeals: An appeal shall be disposed of by the Appellate Authority at the earliest opportunity but ordinarily not later than twelve months from the date of receipt of the appeal."

3. Mr. Sudershan Rajan learned counsel for the Petitioner submits that although he is conscious of the fact that there is a remedy of Appeal, however, provisions of Rule 55A of the Regulations provide a period of twelve months to the Appellate Authority to decide the Appeal. He submits that the Petitioner has been inflicted the extreme and harshest punishment of dismissal from service which has led to a loss of his livelihood. The remedy of Appeal in the present case is therefore neither an efficacious nor an adequate remedy. Mr. Rajan further submits that on account of the Pandemic Covid 19, Petitioner is unable to find a suitable alternative to earn his livelihood and therefore in these unprecedented prevailing circumstances, Petitioner should be exempted from availing the remedy of Appeal and allowed to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

4. I have heard Mr. Rajan learned counsel for the Petitioner.

5. Supreme Court has in the case of ***State of U.P. & Ors. vs. U.P. Rajya Khanij Vikas Nigam S.S. & Ors. (2008) 12 SCC 675*** clearly held that once there is an appellate remedy available against a penalty imposed pursuant to disciplinary proceedings, writ petition should not be entertained till the remedy is exhausted. Although alternate remedy may

not be a bar to a Writ Court entertaining a writ petition but in view of the statutory remedy of Appeal, this Court finds no reason to entertain the present petition at this stage, permitting the Petitioner to bypass the remedy of Appeal.

6. In view of the above, present petition along with accompanying application is disposed of with liberty to the Petitioner to exhaust the available remedy of Appeal under Rule 55A of the Regulations.

7. I do find force in the submission of Mr. Rajan to the extent that the penalty of dismissal is causing extreme hardship to the Petitioner and the prevailing circumstances of Pandemic Covid 19, has worsened the situation as the Petitioner is unable to find an alternate source of livelihood. In this unprecedented situation, a period of twelve months for disposal of Appeal otherwise available to the Appellate Authority under the Regulations is definitely harsh on the Petitioner.

8. In view of the peculiar and unprecedented circumstances, this Court directs that if and when the Petitioner files an Appeal before the Appellate Authority, every endeavour shall be made by the Authority to dispose of the Appeal within a period of eight weeks from the date the Appeal is received by the Appellate Authority.

9. It is made clear that this direction is in the special facts of this case and the unprecedented prevailing circumstances and shall not be treated as a precedent in any other case.

JYOTI SINGH, J.

SEPTEMBER 7, 2020/rd