

\$~Suppl.-7

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

+ **W.P. (C) 97/2021 & CM APPLs.289 -92/2021**

**UNION OF INDIA & ORS. ....Petitioners**

Through: **Mr. Ravi Prakash, Advocate.**

**Versus**

**SHRI SHUSHIL KUMAR AGGARWAL .....Respondent**

Through: **Mr. S.K. Gupta, Advocate with  
Ms. Shubhi Srivastava, Advocate.**

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MS. JUSTICE ASHA MENON**

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Date of Decision: 13<sup>th</sup> January, 2021

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MS. JUSTICE ASHA MENON**

**J U D G M E N T**

**MANMOHAN, J: (Oral)**

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the order dated 17<sup>th</sup> July, 2019 passed by the Central Administrative Tribunal (CAT), Principal Bench, New Delhi in Original Application being OA No. 3157/2017 titled as "*Sushil Kumar Aggarwal v UoP*". Petitioner further prays for a direction to restore the charge memorandum dated 27<sup>th</sup> April 2017 and letter bearing

F.No. C-14011/16/2017 – V&L dated 28<sup>th</sup> August 2017 issued by Petitioner No. 2 to the Respondent.

3. Learned Counsel for the Petitioner submits that the CAT has passed the impugned order without considering the fact that disciplinary proceedings initiated against the Respondent by way of Charge Memorandum and Letter dated 28<sup>th</sup> August, 2017 is a procedure devised to ensure a fair, objective and unbiased assessment of the case against the Respondent by the Petitioners and the CAT erred in setting aside the disciplinary proceedings at a nascent stage, without awaiting the outcome of the same.

4. *Per Contra*, learned counsel for the respondent states that the present writ petition has become infructuous as the impugned judgment has already been implemented inasmuch as the respondent has been paid his retirement benefits on 23<sup>rd</sup> October, 2020 in pursuance to the vigilance clearance dated 15<sup>th</sup> June, 2020.

5. In rejoinder, learned counsel for the petitioner states that the respondent had granted conditional vigilance clearance to the petitioner subject to any order to be passed in appeal or in the present proceedings.

6. Having heard learned counsel for the parties, this Court has perused the statement of articles of charge framed against the respondent.

7. It finds that the respondent had passed the order in a quasi-judicial capacity and the only allegation against him is that he had ignored the decision of the jurisdictional High Court while passing the appellate order. However, it is not the case of the petitioner that the High Court or any other superior forum had given any finding of misfeasance or malfeasance against

the respondent/officer. In fact, there is no allegation that the order is tainted by fraud or illegal gratification.

8. It is pertinent to mention that the order in appeal was passed by the respondent No. 1 on 30<sup>th</sup> April, 2009 and thereafter, he was promoted to the post of Principal Commissioner in 2015. It was just two days before his retirement that the petitioner was issued the impugned articles of charge.

9. Keeping in view the aforesaid, the impugned order calls for no interference in writ jurisdiction. Accordingly, the writ petition and applications stand dismissed.

10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

**MANMOHAN, J**

**ASHA MENON, J**

**JANUARY 13, 2021**

**TS**

न्यायमेव जयते