

\$~12 (2021)

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

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Decision delivered on: 16.11.2021

+ **W.P.(C) 3529/2021**

ANAND PRAKASH VERMA

..... Petitioner

Through: Mr Bharat Bhushan, Adv.

versus

GOVT.OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr Zoheb Hossain, Addl. Standing
Counsel for GNCTD with Mr Vivek
Gurnani, Adv.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J. (ORAL):

[Court hearing convened via video-conferencing on account of COVID-19]

1. This writ petition is directed against the order dated 22.12.2020, passed by the Central Administrative Tribunal (in short “the Tribunal”) in OA No. 1555/2020.

1.1. The petitioner, via O.A. No.1555/2020, had approached the tribunal with the following substantive relief :-

“iii) Pass an appropriate order directing the respondents to immediately relieve the applicant from his present duties so that he may join his duties on the next post, in the interest of justice;”

2. The Tribunal, via the impugned order, has rejected the petitioner’s

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original application [i.e., O.A. No.1555/2020], simply on the ground that the order transferring him to the District Consumer Disputes Redressal Forum (South-I), Qutub Institutional Area, New Delhi, had not been challenged.

2.1 To be noted, the aforesaid transfer order is dated 20.02.2020.

3. Mr Bharat Bhushan, who appears on behalf of the petitioner, informs us that, although, the petitioner was promoted [from the post of Grade-II (DASS)/Assistant Section Officer (ASO) to the post of Grade –I (DASS)/Section Officer (SO)], *vide* office order dated 27.12.2019, he was not relieved from his duties to join the said post.

4. Mr Zoheb Hossain, who appears on behalf of the respondents, says that, the promotion of the petitioner, along with that of others who were considered by the Departmental Promotion Committee [in short ‘DPC’], was *ad hoc* and conditional.

4.1 It is, therefore, Mr Hossain’s submission that, one of the conditions which was laid down in the promotion order [i.e., order dated 27.12.2019] was that the same would be subject to vigilance clearance; along with the stipulation that the concerned officer [in the case, the petitioner] would be relieved only after it was ascertained as to, whether or not any disciplinary proceedings were pending or contemplated against the concerned officer.

4.2 According to Mr Hossain, a show cause notice, dated 07.10.2019, was issued to the petitioner, just prior to the issuance of the aforementioned promotion order i.e., order dated 27.12.2019.

4.3 Therefore, the contention advanced by Mr Hossain, on behalf of the respondents, is that, it is in these circumstances that the petitioner was not relieved from his present post, which is Grade-II (DASS)/ASO.

5. Mr Bhushan, in rejoinder, says that, the approach adopted by the respondents is contrary to the following decisions rendered by the Supreme

Court :-

(i) *Union of India vs. KV Jankiraman*, JT 1991 (3) 527

(ii) *Union Of India vs. Sangram Keshari Nayak*, 2007 (6) SCC 704

5.1 To be noted, Mr Hossain, in support of his contention that the relieving order could not be issued in the instant case, relied upon the judgement of the Supreme Court rendered in the case of *Union Of India vs. Kewal Kumar*, 1993 (3) SCC 204.

6. Having heard the learned counsel for the parties and having perused the record, it is obvious to us that the Tribunal has taken a very prosaic view in the matter.

6.1. The Tribunal ought to have examined the grounds raised in the petitioner's O.A., as to whether or not, in the instant circumstances, the respondent's position that the relieving order could not be issued to the petitioner, was tenable in law. Clearly, the Tribunal has not applied its mind to this aspect of the matter.

7. Therefore, we are inclined to set aside the impugned order and remit the matter to the Tribunal for a *de novo* hearing.

7.1 It is ordered accordingly.

8. Given the position that the promotion order has already been issued [which, as noticed above, is ad hoc and conditional], it would be in the fitness of things that the Tribunal adjudicates the matter with due expedition.

8.1. For this purpose, counsel for the parties are directed to appear before the Registrar of the Tribunal, on 25.11.2021.

8.2. The Registrar will place the matter before the concerned bench of the Tribunal for hearing, at the earliest.

8.3 The Tribunal is requested to dispose of the matter with due expedition, though not later than eight weeks from the date, the matter is

placed before them.

9. Needless to add that the order passed by us today will have no impact on the merits of the case.

RAJIV SHAKDHER, J

TALWANT SINGH, J

NOVEMBER 16, 2021/nk

Click here to check corrigendum, if any

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