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

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Date of Decision: 19.05.2021

+ W.P.(C) 5387/2021 & CM APPL. 16666/2021

BHAJANI RAM MEENA, IPS Petitioner

Through: Dr.K.S. Chauhan & Mr.Ajit
Kumar Ekka, Advs.

versus

UNION OF INDIA & ORS. Respondents

Through: Ms.Monika Arora, CGSC for
UOI/R-1 with Mr.Shriram
Tiwary, Adv.

Mr.Ravinder Agarwal &
Mr.Girish Pande, Advs. for R-2.
Mrs.Avnish Ahlawat, Standing
Counsel for GNCTD
(services)/R-3 with Mr.Nitesh
Kumar Singh, Mrs.Tania
Ahlawat, Ms.Palak Rohmetra,
Advs.

Ms.Beenashaw N. Soni,
Standing Counsel for SDMC/R-
4 with Ms.Mansi Bhatia, Adv.

Mr.Sanjeev Sagar, Standing
Counsel for SDMC with
Ms.Nazia Praveen, Adv.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

NAVIN CHAWLA, J. (Oral)

Signature Not Verified

SHALOO BATRA



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The petition has been heard by way of video conferencing.

1. This petition has been filed challenging the order dated 07.01.2021 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'CAT') in O.A. No. 2113 of 2016, titled ***Shri Bhajhani Ram Meena, IPS v. Union of India & Ors.***, dismissing the said O.A. filed by the petitioner.
2. The petitioner had filed the said O.A. before the learned CAT challenging the order dated 07.06.2016 appointing the respondent no. 5 as the Chief Vigilance Officer, South Delhi Municipal Corporation, as being contrary to paragraph 2.6.1 of Chapter II of the CVC Vigilance Manual.
3. The learned counsel for the petitioner submits that the learned CAT has failed to appreciate that in terms of paragraph 2.4.3 of the Vigilance Manual (Volume I) a panel of names of three officers was to be forwarded by the Ministry to the Central Vigilance Commission ('Commission') from whom the officer approved by the Commission for the post of CVO was to be appointed. He submits that in the present case, the name of only respondent no. 5 was forwarded by the concerned Ministry to the Commission for its approval, thereby violating the procedure prescribed in the Vigilance Manual.
4. We do not find any merit in the submission made by the learned counsel for the petitioner.

5. The respondent no. 1 in its reply filed to the said OA before the learned CAT had *inter alia* explained the procedure followed by it in making appointment of respondent no. 5, as under:

“4. That in accordance with the laid down criteria, South Delhi Municipal Corporation (SDMC) issued a Vacancy Circular dated 9.7.2015 for filling up the post of Chief Vigilance Officer in SDMC on deputation basis. In response SDMC received 15 applications for the post of Chief Vigilance Officer (CVO). After scrutiny of service records of the candidates, SDMC found 02 candidates viz. (1) Sh. Mangesh Kashyap, DANIPS, (2) Sh. Bhajani Ram Meena, IPS (UP:1997) (Applicant) suitable for the post of CVO and forwarded their names to the Govt. of NCT of Delhi (GNCTD) for onward submission to the Respondent Ministry (MHA) for selecting one of the most suitable candidate. However, GNCTD has forwarded name Sh. H.P.S. Sran, DANICS and Sh. Bhajani Ram Meena, IPS (UP:1997). Finally, the respondent Ministry prepared eligible list of three officers viz. (1) Sh. Mangesh Kashyap, DANIPS, (2) H.P.S. Sran, DANICS and (2) Sh. Bhajani Ram Meena, IPS (UP:1997).

5. That respondent Ministry after scrutinizing the relevant records/service records/ACRs of the above 03 officers, found that last 5 years of ACRs grading are “outstanding” in respect of Sh. Mangesh Kashyap, DANIPS (Respondent No. 5) and found him suitable for the post of CVO. Whereas Sh. Bhajani Ram Meena’s (Applicant) four years grading are “outstanding” and one year is “very good”.

“Non-Recording Certificates” (NRC) for the period from 7.12.2013 to 31.3.2015 were recorded in respect of Sh. H.P.S. Sran, DANICS. It is also submitted that the applicant was not found suitable for the post of CVO in SDMC. The applicant has lobbied for the post by bringing extraneous pressure /influence for his selection. He also wrote a letter dated 11.5.2016 to the Union Home Secretary (Annexure-R-4). His efforts/lobbying for the post of CVO created doubt about his intentions. Chief Vigilance Officer (CVO) is a very sensitive job for which the credentials/integrity has to be beyond doubt.

6. *That accordingly, the Respondent Ministry found that Sh. Mangesh Kashyap, DANIPS is the most suitable for the post of Chief Vigilance Officer (CVO) in SDMC and recommended and forwarded his name to the Central Vigilance Commission for their concurrence vide letter No. 14016/20/2015-UTS-I, dated 6.4.2016. Para 2.4.2 (vi) of CVC Vigilance Manual provides that the DoP&T or the Administrative Ministry/Department concerned would obtain specific approval in favour of an officer if the proposal is to appoint that officer as a CVO in any of 100 select organizations. SDMC is in the list of 100 select organizations (Annexure-R-3).”*

6. Para 2.4.2 (vi) of the Vigilance Manual Volume I reads as under:

“2.4.2 The following guidelines have been prescribed for filling up full-time posts of CVOs in the PSUs:

xxxxx

(vi) The DOPT, or the administrative Ministry/Department concerned, would obtain specific approval in favor of an officer in the proposal is to appoint that officer as a CVO in any of 100 select organisations.”

7. The Municipal Corporation of Delhi is listed at Serial No. 92 of the ‘List of Select Organisations for which Specific Approval of the Commission for an Officer to be Appointed as CVO is Required’.

8. Paragraph 2.4.3 is applicable to the PSUs which do not have full time post of CVOs. This is a general residual provision. Paragraph 2.4.2 (vi), however, applies in specific to the 100 select organisations, including MCD. The said procedure would therefore, prevail over the general residual procedure prescribed in paragraph 2.4.3.

9. Admittedly, respondent no. 5 has been appointed after seeking such specific approval from the Commission and is in accordance with Paragraph 2.4.2(vi) of the Vigilance Manual and cannot be faulted on that account.

10. In view of the above, we find no merit in the present petition. The same is dismissed. There shall be no order as to costs.

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

NAVIN CHAWLA, J.

MANMOHAN, J.

MAY 19, 2021/ *rv/ns/P*

