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

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Date of decision: 29.07.2021

+ **W.P.(C) 3908/2020**

GOVT OF NCT OF DELHI & ORS.

..... Petitioners

Through: Mrs. Avnish Ahlawat, Standing
Counsel with Mr. N.K. Singh,
Advocate.

versus

DR. SURENDER PAL & ANR.

..... Respondents

Through: Mr. M K Bhardwaj with Mr. Ridam
Arora and Mr. Deepak Pakad,
Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

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

RAJIV SHAKDHER, J.: (ORAL)

W.P.(C) 3908/2020 &

CM APPL. 13982/2020 [*Application filed on behalf of the petitioner seeking stay on the operation of the impugned order dated 17.12.2019*]

CM APPL. 22509/2020 [*Application filed on behalf of the respondent no. 1 seeking vacation of the interim order dated 02.07.2020*]

CM APPL. 17627/2021 [*Application filed on behalf of the respondent no. 1 seeking implementation of the impugned order dated 17.12.2019*]

1. With the consent of the counsel for the parties, the writ petition is taken up for hearing and final disposal.
2. Mr. M. K. Bhardwaj, who appears on behalf of respondent no.1, says that, the respondent no.1 is aggrieved by the fact that the suspension order has been extended from time to time without due application of mind.

2.1. The record shows that, a sexual harassment complaint was filed against respondent no. 1, on 08.09.2017, which was received, in the office of petitioner no. 3 i.e. Secretary, Ministry of Health and Family Welfare, Government of NCT of Delhi, on 14.09.2017. This was followed by FIR No. 0415/2017, dated 09.09.2017, alleging commission of offences under Section 354/354(A)/506 of the Indian Penal Code, 1860. The said FIR was registered against respondent no.1 with P.S. Jahangir Puri.

2.2. The respondent no.1 was, around this time, placed under suspension, i.e., on 13.09.2017.

2.3. The record also shows [*qua* which there is no dispute] that, the period of suspension was extended thereafter, vide orders dated, 11.12.2017, 08.06.2018, 07.09.2018, and 03.12.2018.

2.4. It is, at this point in time, that respondent no.1 moved the Central Administrative Tribunal (in short 'the Tribunal'). The Tribunal, *via* the impugned order dated 17.12.2019, passed in O.A./100/860/2019, has directed the petitioners to reinstate respondent no. 1.

2.5. The petitioners, being aggrieved by the order of the Tribunal, have approached this court by way of the instant writ petition.

3. According to Mrs. Avnish Ahlawat, who appears on behalf of the petitioners, the respondent no. 1 did not join the enquiry conducted by the Internal Complaints Committee ('ICC'), on at least four occasions, which led to the ICC recommending that the enquiry should be conducted at a "higher level". This aspect emerges upon the perusal of the ICC report dated 11.11.2017.

3.1. It is also Mrs. Ahlawat's contention [*and qua* that there is no dispute] that, a charge memo was, accordingly, served on respondent no. 1 on

30.11.2017.

3.2. The record further discloses that respondent no. 1 assailed the aforementioned charge memo by approaching the Tribunal by way of yet another action i.e. O.A./100/3059/2018. The Tribunal, *via* interlocutory order dated 14.08.2018, stayed further disciplinary proceedings *qua* respondent no. 1.

3.3. A perusal of the impugned order dated 17.12.2019 would show that the Tribunal not only disposed of respondent no. 1's action against the suspension order dated 13.09.2017 but also disposed of O.A./100/3059/2018, *albeit*, via a separate order, which is also dated 17.12.2019.

3.4. The net result is that, while the Tribunal has rejected respondent no. 1's challenge, to the charge memo dated 30.11.2017, it has directed the petitioners to forthwith reinstate respondent no. 1 in service.

4. The abovementioned course, does not find favour with us, as would be evident, from the circumstances set out hereinabove.

4.1. Both the parties have contributed to the delay in the disciplinary proceedings being carried out with due expedition. Although, the petitioners did extend the suspension order between 13.09.2017 and 03.12.2018, the petitioners could do very little between 14.08.2018 [when the disciplinary proceedings were stayed, as noticed above], and till disposal of O.A./100/3059/2018, *vide* order dated 17.12.2019.

4.2. Thus, as would be evident from the above, respondent no. 1, if not fully, is partially responsible for the disciplinary proceedings not concluding within time, in view of the pendency of OA/100/3059/2018.

4.3. Therefore, as indicated above, we are of the view that the best course

would be, that the petitioners should conclude the disciplinary proceedings at the earliest, and that respondent no. 1 should participate in the proceedings, as either way, it would go a long way in helping the cause of respondent no. 1.

5. Accordingly, the writ petition and the pending applications are disposed of with the following directions:

- i) Respondent no. 1 will appear before the enquiry officer on 05.08.2021 at 11:00 A.M.
- ii) Respondent no. 1 will be furnished the entire material, which is available with the enquiry officer concerning the matter at hand.
- iii) In case respondent no. 1 seeks copies of documents, the same will be furnished by the enquiry officer. Request, if any, which is pending in this behalf, will be duly actioned.
- iv) Respondent no. 1 will attend the proceedings without fail on the dates given, except on account of circumstances, which are beyond his control.
- v) The enquiry officer, with the assistance of respondent no. 1, will endeavor to conclude the proceedings, within the next six weeks. The enquiry officer will endeavor to conduct the proceedings on a day-to-day basis.
- vi) Once the enquiry officer submits the report, a copy of the same will be furnished to respondent no. 1. The disciplinary authority will, thereafter, take next steps as per the extant rules and/or regulations.
- vii) The disciplinary authority will conclude its proceedings within four weeks of receiving the report of the enquiry officer.
- viii) In case, for any reason, there is a delay in concluding the disciplinary proceedings, in accordance with the time schedule, laid out by us above, the

respondent no. 1 will, then, have liberty to approach the petitioners for revoking the suspension order. The petitioners will, then, pass a speaking order on such a representation.

6. Resultantly, pending applications shall stand closed.
7. The case papers shall be consigned to the record.

RAJIV SHAKDHER, J

TALWANT SINGH, J

JULY 29, 2021

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[Click here to check corrigendum, if any](#)