

\$~6 (2021)

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

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Date of decision: 18.08.2021

+ **W.P.(C) 6787/2021 & CM APPL. 21375/2021**

MANISH KUMAR VIKAS

..... Petitioner

Through: Mr. Tushar Ranjan Mohanty,
Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Arnav Kumar (Senior Panel,
UII), for R-1.

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. Pursuant to our order dated 20.07.2021, two affidavits have been filed, one by the petitioner, and the other by his advocate, i.e., Mr. Tushar Ranjan Mohanty.

2. As was noticed by us on 20.07.2021, the Central Administrative Tribunal (in short 'the Tribunal'), via order dated 12.03.2021, had dismissed the petitioner's original application i.e., O.A. no. 555/2021, solely on the ground that uncivil and unparliamentary language had been used *qua* respondent no. 4 i.e., Mr. R.P. Sharma, who was petitioner's senior officer.

2.1. We may note that, in paragraph 4.5 of the aforesaid O.A. respondent no. 4/Mr. R.P. Sharma was referred to as a 'goonda element'. Thus, it is in this context that, the Tribunal did not deal with the merits of the petitioner's

application, and as indicated above, dismissed the O.A. summarily.

2.2. Aggrieved by the order of the Tribunal dated 12.03.2021; the petitioner approached this Court, *via* the above-captioned writ petition.

2.3. The petitioner attempted to justify the assertions made in paragraph 4.5 of the aforesaid O.A., by making assertions, to this effect, in paragraph 3.2 of the writ petition.

2.4. Mr. Mohanty has taken us through the affidavit filed by him as well as the petitioner.

2.5. Mr. Mohanty says that, on account of his personal loss [i.e., having lost his son], averments were made both in the aforesaid O.A. and the writ petition [which ought not to have been made] only because of the fact that, he was not in the right frame of mind.

2.6. Furthermore, Mr. Mohanty says that, both the original application, which was filed before the Tribunal, and the writ petition were drawn up by him, and the petitioner [i.e., the original applicant] merely appended his signatures on the same, without paying much attention to the assertions made in paragraph 4.5 of the aforementioned O.A., and paragraph 3.2 of the writ petition.

3. To be noted, Mr. Mohanty has profusely apologised for the manner in which assertions were made in paragraph 4.5 of the O.A. and paragraph 3.2 of the writ petition, in connection with respondent no. 4/Mr. R.P. Sharma. The apology is also incorporated in the affidavit of the petitioner as also Mr. Mohanty's affidavit.

4. Issue notice.

4.1. Mr. Shankar Kumar Jha accepts notice on behalf of respondent no.1/UOI.

4.2. We have put to Mr. Jha as to, whether he would have any objection, if we were to remit the matter to the Tribunal for deciding the petitioner's O.A.

on merits. Mr. Jha says that he has no objection, if such a direction is passed.

4.3. Since we are remitting the matter to the Tribunal for a decision on merits no notice needs to be issued to the remaining respondents.

4.4. Accordingly, the impugned order of the Tribunal is set aside.

5. The affidavits of the petitioner and Mr. Mohanty, which are dated 24.07.2020, are taken on record.

5.1. Mr. Mohanty will file an amended original application before the Tribunal, which will exclude paragraph 4.5 of O.A. no. 555/2021, within ten days from today.

5.2. The Tribunal will, thereafter, take up the matter for a decision on merits.

6. We may also note that, the Tribunal has imposed cost of Rs. 10,000/-, via the impugned order dated 12.03.2021. Although, we were initially not inclined to waive the cost, however, since Mr. Mohanty says, as noted hereinabove, that it was his personal loss, which led to the error, we have decided to waive the cost. It is ordered accordingly.

7. The writ petition is disposed of in the aforesaid terms. The pending application shall also stand closed.

RAJIV SHAKDHER, J

TALWANT SINGH, J

AUGUST 18, 2021

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Click here to check corrigendum, if any