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

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Date of decision: 06.08.2021

+ **LPA 226/2021 & CM No.24698/2021**

VINOD KUMAR KATARIA

..... Appellant

Through : Mr. Bharat Singh, Adv.

versus

UNION OF INDIA AND ANR

..... Respondents

Through : Ms. Monika Arora, CGSC with Mr.
Shriram Tiwary, Adv. For UOI.
Mr. Yashpal Rangi, Adv. For R-2.

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)

CM No.24698/2021

1. Allowed, subject to just exceptions.

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2. This appeal is directed against the order of the learned Single judge, dated 20.07.2021.

2.1. The learned single judge, via the impugned order, dismissed the writ petition i.e. W.P.(C)No.6746/2021, principally, on the ground that because petitioner's earlier writ petitions i.e. W.P.(C)Nos.12674/2019 and 4421/2020 had been dismissed, *via* a common judgment dated 23.06.2021, *inter alia*, on the ground that both the transfer policy, and Rule 58A of the

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Service Byelaws had neither been challenged, nor liberty was sought, in that behalf - no such challenge could be laid in the instant petition. In this context, the learned single judge also invoked, the principles analogous to Order II Rule 2 of the Code of Civil Procedure, 1908 (in short 'CPC'), to buttress his reasoning.

2.2. To be noted, the transfer policy was made in accordance with Rules 46(1) & (2) of the Service Byelaws of CCRT [that contemplated All India Seniority] and Rule 58A, whereby, CCS (CCA) Rules, 1965 were made applicable to the employees of CCRT.

2.3 Pertinently, W.P.(C)No.12674/2019 had been filed to assail the transfer order dated 26.11.2019 whereas W.P.(C)No.4421/2020 had been filed to assail the suspension order dated 03.07.2020.

2.4. The instant writ petition i.e., W.P.(C.) 6746/2021 has been filed to challenge, as noticed above, the transfer policy, which is, dated 21.05.2019, and Rule 58A of the Service Byelaws of CCRT.

3. Mr. Bharat Singh, who appears on behalf of the appellant, says that the appellant was not able to challenge the transfer policy, on earlier occasions, as he had no information as to whether or not the transfer policy was in existence.

3.1 For this purpose, he has drawn our attention to a communication dated 26.11.2019 addressed to the Director, CCRT, which is appended on page 194 of the case file. A perusal of this communication shows that, the appellant expressed his lack of knowledge qua the existence a transfer policy.

3.2. Mr. Singh informs us that, the appellant became aware of the transfer

policy, only after a counter-affidavit was filed by the respondents in W.P.(C.) 12674/2019. On being queried as to why he had not sought amendment to the writ petition, Mr. Singh, fairly, conceded that the appellant had erred in not seeking leave to amend the writ petition.

4. However, we have been informed by Mr. Yashpal Rangi, who appears on advance notice on behalf of respondent no.2/CCRT, that after conducting a departmental inquiry, the appellant was dismissed from service on 16.07.2021.

4.1. The appellant, who has also joined the proceedings, says that ex-parte proceedings were undertaken against him, and that he has filed an appeal *qua* the said grievance, with the appellate authority i.e. the Chairperson, CCRT.

5. We have also asked the appellant: whether any appeal was filed against the judgment of the learned single judge dated 23.06.2021 whereby W.P.(C)Nos.12674/2019 and 4421/2020 were dismissed?

5.1. We have been informed by the appellant and Mr. Singh that, an appeal was lodged on 19.07.2021, which has been accorded the diary no. 425336/2021.

6. Pertinently, when the instant writ petition, was moved before the learned single judge on 20.07.2021, no disclosure was made that the appellant had already been dismissed from service on 16.07.2021.

6.1 The appellant is obviously aggrieved by the order of dismissal, and as noted above, has filed an appeal in that behalf.

7. Having regard to the aforesaid, we are of the view that, the instant appeal will not bear any fruit, at least at this juncture, in view of the subsequent event i.e. the dismissal of the appellant from service.

8. For the foregoing reasons, the appeal and the pending application, for the moment, are closed.

RAJIV SHAKDHER, J

TALWANT SINGH, J

AUGUST 6, 2021

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