

\$~13(2021)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8453/2021 & CM Nos.26177-78/2021**

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Date of decision: 16.08.2021

GOVT OF NCT OF DELHI & ANR. Petitioners

Through : Ms. Avnish Ahlawat, Standing
Counsel with Mrs. Tania Ahlawat, Mr.
Nitesh Kumar Singh and Ms. Palak
Rohemetra, Advs.

versus

SANJAY KUMAR TYAGI Respondent

Through : None.

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.26177/2021

1. Allowed, subject to just exceptions.

W.P.(C) 8453/2021 & CM No.26178/2021 [*Application filed on behalf of the petitioners seeking stay on the operation of the impugned order*]

2. This writ petition is filed against the order dated 13.01.2021 passed by the Central Administrative Tribunal (in short 'the tribunal') in O.A.No.1928/2016.

3. In order to adjudicate upon this writ petition, the following brief facts are required to be noticed.

3.1. The respondent, at the relevant point in time, was posted as a Sub-Registrar at Asaf Ali road, New Delhi, and was served with a charge sheet on 11.11.2004, under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 (hereafter referred to as "1965 Rules").

3.2. The charge against the respondent was that, upon a surprise visit of the Minister of Revenue and Development, Government of NCT of Delhi, an unauthorized person was found in possession of the documents, which were registered by the respondent, on different dates, concerning various persons.

3.3 In sum, it was alleged that, the respondent was not following the laid down procedure regarding registration of documents, so as to confer undue advantage on some persons in the matters concerning registration of the said documents, and thus, contravening the provisions of Rule 3 of the 1965 Rules.

3.4. Unfortunately, the inquiry did not conclude till 02.03.2012. The inquiry officer submitted her report on 02.03.2021 holding that, the charge against the respondent was partly proved. The respondent was given an opportunity to make a representation, which he did, on 23.10.2012.

3.5. The disciplinary authority, thereafter, imposed a punishment on the respondent, *albeit*, after considering his representation. The punishment was imposed by the disciplinary authority, vide order dated 28.01.2013. The punishment awarded to the respondent involved imposition of penalty of reduction in pay by one stage in the time-scale of pay for a period of one year, without increment in pay during the period of reduction. The said order further went on to say that, on the expiry of this period, the reduction will not have the effect of postponing his future increment in pay.

3.6. Being aggrieved, the respondent preferred an appeal before the appellate authority i.e. the Lt. Governor of Delhi.

3.7. One of the issues raised by the respondent, in the appeal before the appellate authority, was that, the inquiry had been conducted jointly, both, against him and his subordinate. The appellate authority, vide order dated 26.02.2016, concluded that the common inquiry report, in effect, was akin to the proceedings under Rule 18 of the 1965 Rules.

3.8. Having reached the aforesaid conclusion, the appellate authority remitted the matter to the disciplinary authority for conducting a de novo inquiry from the stage, at which it was positioned, under Rule 14(6) of the 1965 Rules.

3.9. The appellate authority, being cognisant of the fact, that the proceedings against the respondent had gone on far too long, indicated in the order, which was passed on 26.02.2016, that the disciplinary authority should conclude the proceedings against the respondent in a time-bound manner, though not later than six months.

4. It is against this order of the appellate authority i.e., order dated 26.02.2016, that the respondent instituted an action before the Tribunal. The Tribunal, *via* the impugned order, recorded the following findings of fact *qua* which there is no dispute:

(i) That the punishment, as ordered by the disciplinary authority, has already been effected.

(ii) That the respondent, in the interregnum, had been compulsorily retired.

4.1. Having regard to the aforesaid, the Tribunal set aside the aforementioned order of the appellate authority, and consequently, allowed the respondent's original application.

5. The petitioners, which include the Government of NCT of Delhi, have filed this writ petition seeking reversal of the impugned order, passed by the Tribunal.

6. We have heard Ms. Avnish Ahlawat, who appears on behalf of the petitioners, in support of the writ petition, and also perused the documents.

6.1. To our minds, no interference is called for with the order of the Tribunal, having regard to the fact that, the punishment meted out to the respondent by the disciplinary authority has been suffered by him, and he has also been compulsorily retired.

6.2. Furthermore, the proceedings against the respondent, to our minds, have gone on far too long. The span, over which the proceedings against the respondent have spread, commences from November 2004 up until now.

6.3. To our minds, the quietus put in place by the Tribunal on the disciplinary proceedings initiated against the respondent, is something, we are not inclined to disturb, having regard to the factors, which are noted hereinabove by us.

7. Accordingly, the writ petition is dismissed. The interlocutory application seeking a stay on the operation of the impugned order shall, accordingly, stand closed.

RAJIV SHAKDHER, J

TALWANT SINGH, J

AUGUST 16, 2021

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W.P.(C) 8453/2021

Click here to check corrigendum, if any

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