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

% **Date of decision: 01.02.2022**

+ **W.P.(C) 1940/2022**

SANJEEV GHEI

.....Petitioner

Through Mr Ashok Kumar Bhardwaj, Advs
versus

UNION OF INDIA AND ANOTHER

.....Respondent

Through Mr Nidhi Raman, CGSC with Mr
Zubin Singh, Adv for R-1/UOI.

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 APPL.5581/2022

1. Allowed, subject to just exceptions.

W.P.(C) 1940/2022

CM APPL.5572/2022[*Application filed on behalf of the petitioner for interim relief*]

CM APPL. 5573/2022[*Application filed on behalf of the petitioner for placing on record additional documents*]

2. This writ petition is directed against the order dated 08.01.2019, passed by the Central Administrative Tribunal [in short, the “the Tribunal”] in O.A. No. 2336/2017.

3. We have asked Mr Ashok Kumar Bhardwaj, who appears on behalf of the petitioner, at the very outset, as to the reason for approaching this Court after more than three years.



3.1. Mr Bhardwaj says that the petitioner has approached this Court, at this juncture, on account of an order passed by the Inquiry Officer (IO), whereby he has justified the continuation of the disciplinary proceedings by taking recourse to the impugned order i.e., order dated 08.01.2019. In this context, Mr Bhardwaj has relied upon the proceeding sheet of 30.08.2021 prepared by the IO.

3.2 Mr Bhardwaj says that the respondents did not continue with the disciplinary proceedings, even after the six months period, as provided in the impugned order dated 08.01.2019 for standing over the disciplinary proceedings, had elapsed.

3.3 It is Mr Bhardwaj's contention that the disciplinary proceedings were fixed by the IO on 20.08.2019 and 19.09.2019, and on both the occasions, the proceedings were adjourned.

4. Mr Bhardwaj goes on to say that, thereafter, on 27.09.2019, the petitioner was compulsorily retired from service. It is Mr Bhardwaj's submission that, therefore, the disciplinary proceedings against the petitioner, in any event, could not have continued.

4.1 It is conceded by Mr Bhardwaj that a challenge *qua* this aspect has been raised by the petitioner before the Tribunal in O.A. No.2/2022 and that the said O.A. is listed, before the Tribunal, for hearing on 11.02.2022.

5. Ms Nidhi Raman, learned Central Government Standing Counsel, who appears on behalf of the respondents takes several objections, including the objection, as noticed above, that the petitioner has approached this Court after three years.

5.1 Ms Raman has also emphasized that the disciplinary proceedings cannot be adjourned indefinitely, to await the outcome in the criminal



proceedings. It is argued that criminal proceedings by their very nature will take time for conclusion.

5.2. The record shows that the allegation against the petitioner is that, in a trap laid against him, he was allegedly caught taking graft amounting to Rs.3.50 lakhs. It is because of this that the respondents served the petitioner with a charge memo dated 31.12.2014.

5.3 The record also shows that, in the criminal proceedings lodged against the petitioner, a charge sheet has been filed, albeit in and about 30.3.2015.

5.4. Mr Bhardwaj says that the concerned criminal court has not framed charges as yet, in the matter concerning the petitioner.

6. It is Mr Bhardwaj's concern that the Tribunal in the pending proceedings i.e., O.A. No.2/2022 may take recourse to its earlier order dated 08.01.2019 to sustain the stand of the respondents.

7. At this juncture, we cannot possibly come to a conclusion as to which way the Tribunal will rule. However, what is clear to us, given the facts and circumstances obtaining in the case, that the order dated 08.01.2019 was passed by the Tribunal, when the petitioner was still in service and criminal proceedings had been initiated against him. This circumstance underwent a change after the order dated 08.01.2019 was passed, inasmuch as the petitioner was compulsorily retired from service, on 27.09.2019.

7.1 Therefore, even according to Mr Bhardwaj, the issue that concerns the Tribunal in O.A. No.2/2022 is: whether disciplinary proceedings can continue *qua* the petitioner, once he has been compulsorily retired ?

7.2. According to us, the order dated 08.01.2019 cannot come in the way of the Tribunal adjudicating upon the issue, which the petitioner says he has raised in O.A. No.2/2022. That said, the Tribunal, no doubt, will hear the



respondents before reaching a conclusion, one way or the other.

7.3. Therefore, the answer to the question as to whether or not the disciplinary proceedings should continue, which is, the relief that the petitioner seeks in O.A. No.2/2022, in the facts and circumstances set forth, is an aspect that the Tribunal will examine in the pending proceedings.

8. Mr Bhardwaj says that, in view of what is stated hereinabove, the writ petition can be closed.

8.1 It is ordered accordingly.

9. The Tribunal will endeavour to conclude the pending proceedings at the earliest.

10. Consequently, pending applications shall also stand closed.

11. The case file shall stand consigned to record.

RAJIV SHAKDHER, J

TALWANT SINGH, J

FEBRUARY 1, 2022/pmc

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