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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 25.03.2022

+ W.P.(C) 4968/2022

SANJEEV GHEI

..... Petitioner

Through: Mr A.K. Bhardwaj with
Mr. Shivanshu Bhardwaj and Mr.
Karan Gautam, Advocates.

versus

UNION OF INDIA AND OTHERS Respondents

Through: Ms Nidhi Raman, CGSC with
Mr Tarveen Singh Nanda, Advocate
for respondent nos.1 and 2.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE JASMEET SINGH

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):CM APPL. 14775/2022

1. Allowed, subject to just exceptions.

W.P.(C) 4968/2022

CM APPL 14774/2022 [Application filed on behalf of the petitioner
seeking interim relief]

CM APPL. 14776/2022 [Application filed on behalf of the petitioner for
filing additional documents]

2. Issue notice.

3. Ms Nidhi Raman accepts notice on behalf of respondent nos.1 and 2



3.1. In view of the directions that we intend to pass, notice need not issue to respondent no.3.

4. With the consent of the parties, the writ petition is taken up for hearing and final disposal, at this stage itself.

5. This writ petition is directed against an interlocutory order dated 23.02.2022, passed by the Central Administrative Tribunal [in short 'Tribunal'] in OA No.2/2022 and MA Nos.399/2022 and 400/2022, preferred in the said O.A.

6. Mr A.K. Bhardwaj, who appears on behalf of the petitioner, says that the petitioner had approached the Tribunal by way of MA No.399/2022 seeking a stay on the charge memo dated 31.12.2014. It is the contention of Mr Bhardwaj that this charge memo stands withdrawn; an aspect which the Tribunal has also noted in its order dated 23.02.2022.

6.1. In support of this plea i.e., that the aforementioned charge memo has been withdrawn, Mr Bhardwaj has drawn our attention to pages 299 and 449 of the case file.

7. Ms Nidhi Raman, who appears on behalf of the respondent nos.1 and 2, says that although the record placed before the court, at this juncture, shows that the charge memo is withdrawn, a close perusal of the document relied upon by Mr Bhardwaj, will show that the respondents intend to issue a fresh charge memo.

7.1. Furthermore, Ms Raman says that, at this point in time, she does not have any instructions as to whether or not a fresh charge memo has, in fact, been issued to the petitioner.

8. A perusal of the prayers made in the O.A. shows that the petitioner is also aggrieved by the fact that while he has been compulsorily retired from



service w.e.f. 27.09.2019, an attempt was being made to continue with the disciplinary proceedings against the petitioner. According to the petitioner, the continuation of the disciplinary proceedings has become in law, even more untenable, with the withdrawal of the charge memo dated 31.12.2014.

8.1. Since the record i.e., the impugned order shows that the Tribunal has listed the O.A. before it on 28.03.2022, the Tribunal will take the decision one way or the other, on this aspect of the matter.

8.2. The respondents will inform the Tribunal on the next date of hearing, as to whether or not a fresh charge memo stands issued against the petitioner. In case a fresh charge memo stands issued, the Tribunal will take that fact into account and pass orders as deemed fit, having regard to such circumstance.

9. At this stage, one of the arguments that Mr Bhardwaj raises is that there is an apprehension in the mind of the petitioner that the respondents will continue proceedings *vis-à-vis* the charge-memo dated 31.12.2014, although the same has been withdrawn.

9.1. In this context, our attention has been drawn by Mr Bhardwaj to the prayer made in M.A. No.399/2022, preferred in the aforesaid O.A. For the sake of convenience, the substantive prayer made in the application is extracted below:

“In the premises of the above, it is respectfully prayed that the further proceedings qua the charge memorandum No. F.No. C-14011/91/2014-V&L dated 31.12.2014 may kindly be stayed, being impermissible under the law.”

9.2. M.A. No. 399/2022 was dismissed, without calling upon the respondents to respond to the same via the impugned order, on the ground



that it has been rendered infructuous.

9.3. However, the documents appended on pages 473 and 475 of the case file, prima facie, seem to suggest that although, the charge memo dated 31.12.2014 has been withdrawn, the proceedings qua the same are being continued by the respondents.

10. In these circumstances, we are of the view, that given the prayer made in the MA No.399/2022, as extracted above, the Tribunal clearly has not appreciated the relief that the petitioner was seeking.

11. Therefore, the impugned order passed *qua* MA No.399/2022 is set aside.

11.1. The Tribunal is directed to hear, afresh, arguments in MA No. 399/2022 along with OA No. 2/2022.

12. The writ petition is disposed of in the aforesaid terms.

13. Consequently, pending applications shall stand closed.

(RAJIV SHAKDHER)
JUDGE

(JASMEET SINGH)
JUDGE

MARCH 25, 2022/tr

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