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

Date of Decision:- 12.10.2022

+ W.P.(C) 14451/2022
RAMAKANT DIXIT

..... Petitioner

Through: Mr.S.K.Srivastava with Ms.Shubhi
Srivastava, Advs.

versus

UNION OF INDIA AND ORS

..... Respondent

Through: Mr.Ajay Digpaul, CGSC with
Mr.Kamal Digpaul, Ms.Swati Kwatra, Advs for R-
1.

Mr.R.V.Sinha with Mr.A.S.Singh, Mr.Amit Sinha,
Advs for R-2, 4 & 5.

Mr.Ravinder Agarwal, Adv for R-3.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

CM APPL. 44072/2022

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 14451/2022 & CM APPL. 44073/2022 -Stay.

3. The petitioner, who is working as an E-8 level officer in the respondent no.2/organization, has approached this Court seeking the following reliefs:-

(i) To issue a Writ of Mandamus or any other appropriate Writ, Order or Direction as deemed fit & proper by this Hon'ble Court in the facts of case directing Respondents not



to let Respondent No.4 to act as Disciplinary Authority qua Petitioner & to further direct Respondents to remove Respondent No.4 from status of Disciplinary Authority qua Petitioner & appoint in her place independent, unbiased & disinterested person as Disciplinary Authority qua the Writ Petitioner for the pending inquiry as also all such matters.

(ii) To direct the Respondents not to let Respondent No.4 to deal with any matter pertaining to Writ Petitioner either directly or through her subordinates & to further direct that all such matters should be dealt with by any person not having any personal interest in the outcome of the pending & ongoing enquiry is against the Writ Petitioner.

(iii) To grant to the Writ Petitioner the cost of Writ Petition.

4. At the outset, it has been put to the learned counsel for the petitioner as to how the present petition would be maintainable in view of the specific findings recorded by this Court while dismissing the earlier writ petition being W.P.(C)4962/2021 preferred by the petitioner, wherein he had sought quashing of the charge sheet on the very same ground i.e., of the respondent no.4/the disciplinary authority being biased against him.
5. Learned counsel for the petitioner vehemently contends that even though the petitioner had earlier approached this Court on the very same grounds, the prayer sought in the present petition is different from that sought in the earlier writ petitions and therefore, the present petition is maintainable. He, therefore, prays that the present petition be considered on merits.
6. In support of the petition, he submits that not only was the charge sheet issued by respondent no.4, who has an inherent bias against him, but respondent no.4 being the disciplinary authority, even the inquiry



report has been submitted to her. The petitioner apprehends that on account of her inherent bias, the respondent no.4 is likely to take a decision adverse to his interests and therefore prays that in lieu of respondent no.4, an independent person be appointed to consider the inquiry report.

7. On the other hand, learned counsel for the respondents, who appear on advance notice vehemently oppose the petition by contending that the present petition is an abuse of the process of law. They contend that the petitioner had, on earlier occasions, approached this Court by way of W.P.(C)2620/2021, W.P.(C)4962/2021 & W.P.(C)9094/2022, wherein he had sought to unsuccessfully stall the disciplinary proceedings against him by seeking quashing of the charge sheet inter alia on the very same ground that respondent no.4 had an inherent bias against him. Even though all these petitions preferred by him were dismissed by this Court and that too by granting him liberty to challenge the final order, the petitioner has still proceeded to indulge in this fourth round of litigation by filing the present petition when a final order in the disciplinary proceedings is yet to be passed. They, therefore, pray that the writ petition be dismissed with exemplary costs.
8. In response, learned counsel for the petitioner reiterates that the reliefs sought in the earlier petitions preferred by the petitioner was different and therefore the present petition is maintainable on merits. He further submits that the first petition being W.P.(C)2620/2021 was filed at a stage when the charge-sheet against the petitioner had not been issued and, therefore, this Court had dismissed the aforesaid writ petition as



being premature. He, however, concedes that in the other two petitions i.e., W.P.(C)4962/2021 & W.P.(C)9094/2022, which were preferred after the issuance of the charge-sheet, the same issue regarding the bias on the part of the respondent no.4 against the petitioner had been raised. He, however, submits that since the stage of the disciplinary proceedings is now different, the findings recorded in W.P. (C) 4926/2021 would not be material for grant of the relief being sought in the present petition.

9. Having considered the submissions of learned counsel for the parties and perused the record, I find absolutely no merit in the present petition and am inclined to agree with the respondents that the present petition is an abuse of process of law and wastage of judicial time in a situation when the Courts, after the resumption of normal work after the pandemic of Covid-19 are still endeavouring to deal with the numerous petitions which remained undecided for those two long years. The fact that the very same plea of bias against respondent no.4 was not only raised by the petitioner at the time of assailing the charge sheet in W.P.(C)4962/2021 but was also dealt with in great detail by the Court is evident from a bare perusal of the order dated 23.04.2021, vide which the writ petition was dismissed. No doubt the petitioner was granted liberty to raise the very same ground after the passing of the final order but that liberty would not imply that the petitioner could repeatedly approach the Court even when a final order is yet to be passed. The relevant extracts of the order dated 23.04.2021 read as under:-

“12.Insofar as the submission of Mr. Bhardwaj of bias against the



Disciplinary Authority, by contending that the Disciplinary Authority having represented/made a presentation to the CVC shows that the Disciplinary authority is an interested party, is also without any merit. Mr. Aggarwal is right in contending that the presentation was made on the asking of the CVC. It appears the presentation is only to enable the CVC understand the role of the petitioner in the whole episode, which the authority is well acquainted having itself sought the advice. The same cannot suggest bias on the part of the disciplinary authority.

13. The plea that in view of the communication sent by the petitioner to CBI against the CMD, the Disciplinary Authority, she should not act as such also, is not appealing for more than one reason. Firstly, the process which resulted in the issuance of the impugned memorandum was started in the year 2019 when first stage advice was sought by the Disciplinary Authority from CVC. In other words, the advice of CVC was not sought after the petitioner had made a complaint to the CBI. Secondly, even the reconsideration of the advice sought by the Disciplinary Authority was much before the petitioner wrote to the CBI on December 09, 2020. The impugned memorandum issued to the petitioner is in conformity with the advice given by the CVC. In any case, the plea is pre mature. The Disciplinary Authority except issuing the charge sheet has not taken any steps, which would suggest bias. The charges framed have to be looked into by the Inquiry Officer independently on the basis of the material produced by the Department and the petitioner. The Inquiry Officer may or may not prove the charges. If the charges are not proved, the disciplinary proceedings may be treated as closed. Even if proved, the final order has to be passed based on cogent evidence and findings against the petitioner. The petitioner shall have a remedy against the final order under the Rules. Even if unsuccessful, he sll be at liberty to seek judicial review in accordance with law, wherein he can urge the plea as advanced now. For the present, on the facts available the plea is unsustainable.”

10. A perusal of the aforesaid extracts clearly shows that the issue as to whether the disciplinary proceedings could be interdicted by quashing



the charge sheet at that stage on the ground of purported bias on the part of respondent no.4 was dealt with at great length by the Court and thereafter rejected. In fact, the Court did not find any merit in the petitioner's plea that since the respondent no.4 as the Disciplinary Authority had made a representation to the CVC, she was an interested party and therefore, there was bias on her part. While rejecting the petitioner's plea of bias, the Court noted the fact that the presentation to the CVC had been made by the respondent no.4 in response to a request made by the CVC to understand the petitioner's role, and therefore, the mere submission of a presentation by respondent no.4 to the CVC could not be construed as bias on her part.

11. It may also be noted at this stage that the grievance now being sought to be raised by the petitioner was not only the subject matter of adjudication in W.P.(C)4962/2021, but was also raised by the petitioner in his representation dated 15.05.2021, whereafter he had preferred a writ petition being W.P.(C)9094/2022, which was also dismissed by this Court on 02.06.2022. It was, therefore, not open for the petitioner to approach this Court at this stage when a final order is yet to be passed in the disciplinary proceedings. It is thus clearly evident that the petitioner is repeatedly attempting to raise the same issue before the Court in an attempt to somehow stall the proceedings.
12. In the light of the aforesaid, it is evident that the present petition is wholly misconceived and has been filed with an attempt to waste the precious time of the Court and therefore the same deserves to be dismissed with costs quantified at Rs.2,00,000/-. The costs will be



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paid to the Delhi High Court Bar Clerk's Association, A/C No.15530100006282, IFSC Code UCBA0001553, UCO Bank, Delhi High Court Branch. The said amount will be utilised only for the welfare of the families of clerks who succumbed to the Covid-19 pandemic.

(REKHA PALLI)
JUDGE

OCTOBER 12, 2022
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