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

% *Date of Decision: 23rd December, 2022*

+ W.P.(C) 17676/2022

PS MEENA

..... Petitioner

Through: Mr. Shanker Raju, Mr. Nilansh Gaur, Mr. Rajesh Sachdeva, Advocates.

versus

GOVERNMENT OF NCT OF DELHI AND
ANR.

..... Respondents

Through: Ms. Avnish Ahlawat, Standing Counsel with Mr. N.K. Singh and Ms. Aliza Alam, Advocates.

**CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH**

JUDGEMENT

JYOTI SINGH, J. (ORAL)

CM APPL. 56494/2022 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 17676/2022 & CM APPL. 56493/2022 (stay)

3. Present writ petition has been filed by the Petitioner assailing a show cause notice dated 14.12.2022 directing the Petitioner to explain as to why the penalty of 'CENSURE' imposed on him be not revised to 'dismissal from service which shall ordinarily be a disqualification for future employment under the Government', as per the extant provisions. A period of 7 days has been granted to the Petitioner to file a reply thereto.
4. Mr. Raju, learned counsel for the Petitioner *inter alia* contends that the show cause notice has not been issued by the Competent Authority and in any case, there are no rules or regulations including

the CCS(CCA) Rules which permit the Respondents from revising the penalty.

5. Ms. Ahlawat, learned Standing Counsel appearing on advance copy of the writ petition, submits that Petitioner was granted a period of seven days to file reply, which opportunity he has chosen not to avail. It is submitted that it is a settled law that an employee must first respond to the show cause notice before approaching the Court for redressal and therefore, the writ petition is premature.

6. This Court finds merit in the contention of the Respondents that the writ petition is premature. Since a show cause notice has been issued to the Petitioner, calling upon him to file a reply, the writ petition is allowed to this limited extent, giving liberty to the Petitioner to file a reply within a period of two weeks from today.

7. Needless to state that the reply shall be filed without prejudice to the rights and contentions of the Petitioner. Respondents are at liberty to take a decision in accordance with law, after receiving the reply and according a personal hearing to the Petitioner.

8. It is directed that in case the decision is adverse to the Petitioner, a reasoned and speaking order shall be communicated to him and the final order shall be kept in abeyance for a period of two weeks, from the date of communication to the Petitioner, in order to enable the Petitioner to take recourse to the remedies available to him, in accordance with law.

9. Writ petition along with pending application stands disposed of.

JYOTI SINGH, J

DECEMBER 23, 2022/*shivam*