

\$~107

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

% *Date of Decision: 24th March, 2023*

+ **W.P.(C) 3795/2023**

DR S UMESH KUMAR Petitioner

Through: Col. Amit Kumar (Retd.),
Mr. Sunil J. Mathews, Mr. Ishan Gill,
Mr. Rohan Wadhwa, Mr. Albert Bony and
Ms. Jyoti Dua, Advocates

versus

UNION OF INDIA & ORS. Respondents

Through: Ms. Manisha Agrawal Narain,
Central Government Standing Counsel with
Ms. Rakshita Goyal and Mr. Sandeep Singh
Somaria, Advocates for R-1, 3, 5, 6, 7 and
10.

Mr. Ravinder Agarwal, Advocate also for
R-3.

Mr. Ripu Daman Bhardwaj, Special Public
Prosecutor, CBI with Mr. Abhinav
Bharadwaj, Advocate for CBI.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

C.M. APPL. 14805/2023 (exemption)

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

W.P.(C) 3795/2023

3. Present writ petition has been filed seeking the following reliefs:-

“a. That this Hon’ble Court in the interest of justice and equity be pleased to issue a writ of mandamus directing the Respondents to perform the duties vested within them to uphold the rights of the petitioner herein.

b. That this Hon'ble Court in the interest of justice and equity be pleased to issue a writ of certiorari or any other writ order, or direction in the nature of certiorari calling for the records and proceedings of the case in hand and to examine the legality and propriety of the various orders, directions and decisions and/or otherwise.

c. That this Hon'ble Court in the interest of justice and equity be pleased to restrain the Respondents from acting upon against the guidelines, rules, provisions and well-established principles of law and further restraining them from taking any coercive steps against the Petitioner.

d. for interim and ad-interim reliefs in terms of prayer clause (a) to (c) hereinabove;

e. Set aside the suspension & extension of the petitioner and order dated 26.02.2008 (Annexure P-11) & Suspension Order dt. 23.06.2015 (Annexure P-39) and, grant pension with interest as compensation for injury and harassment of the petitioner and his family as if he would have promoted in the period of his service;

f. Set aside Order of Disciplinary Action by the respondents dt. 24.09.2019 & (Annexure P-61) & dt. 15.11.2019 (P-63).

g. Set aside Charge Sheet dt. 15.09.2015 (Annexure P-41).

h. To direct CSIR and CFTRI to pay the Appellant forthwith all his back wages from 24.06.2015 until he retired from service on 31st October 2015 with 8% penal interest and thereafter Pension and all retirement benefits like gratuity, earn leave encashment, group insurance etc with 12% penal interest.

i. To order CSIR and CFTRI to pay the Appellant a lump sum of Rs 10 Lakh as compensation.

j. Set aside the matter of violation of the rules laid down in the procedures of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and harassment of the Petitioner."

4. Learned counsel appearing on behalf of Petitioner points out that the Petitioner had approached the Central Administrative Tribunal, Bangalore Bench seeking some reliefs which, according to him, were different from the reliefs sought in the present writ petition. Without entering into the merits of the issue whether the reliefs sought before the Tribunal were same or different, this Court cannot entertain the writ petition as the same is not maintainable in this Court. The Constitution Bench of the Supreme Court in ***L. Chandra Kumar v.***

Union of India and Others, (1997) 3 SCC 261 has held that the Central Administrative Tribunal is the Court of first instance in service matter disputes.

5. Writ petition is accordingly disposed of, granting liberty to the Petitioner to approach the appropriate Forum. It is made clear that this Court has not gone into the merits of the case and/or the issue whether the reliefs sought in the present petition are same/different from the ones sought in O.A. No.97/2013 decided on 14.08.2014. This issue is left open to be decided by the appropriate Forum, if and when, Petitioner takes recourse to any other remedy.

MARCH 24, 2023/kks

JYOTI SINGH, J