

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

% *Date of Decision: May 09, 2023*

+ **W.P.(C) 5970/2023**

ANIL BHAI

..... Petitioner

Through: Mr. Gaurav Kakar and Mr. Harsh
Jaiswal, Advocates.

versus

THE COMMISSIONER OF POLICE & ORS. Respondents

Through: Mrs. Avnish Ahlawat, SC (DP
Services) with Ms. Tania Ahlawat,
Mr. Nitesh Kumar Singh, Ms. Palak
Rohmetra, Ms. Laavanya Kaushik and
Ms. Aliza Alam, Advocates with SI
Vedprakash, PCR Unit.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO (Oral)

CM APPL. 23461/2023

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

W.P.(C) 5970/2023

3. This petition has been filed by the petitioner challenging order dated November 20, 2019 passed by Central Administrative Tribunal ('Tribunal', in short) in O.A. No. 4580/2014, whereby the Tribunal has dismissed the Original Application filed by the petitioner herein by stating in paras 6 and 7 as under:

"6. The allegation against the applicant is that he received illegal gratification from the dealer of a CNG Agency for permitting the movement of tankers. The allegation was made against some

other Police officials also. Having regard to the gravity of the allegations, the concerned authority arranged for a sting operation. The video recording was also arranged. In the course of inquiry, it was proved that the applicant has received illegal gratification of Rs.1,000/- at third point on the particular day. The applicant was not able to disprove or suggest anything to the contrary. Once a serious charge of receiving illegal gratification IS proved, through irrefutable evidence of video recording, the applicant cannot escape from the consequences thereof. It is not even alleged that the video recording is fabricated or that it does not reflect the true state of affairs.

7. We cannot sit as an appellate authority over the findings in the departmental inquiry. It is only when serious lapse is pointed, that the possibility may exist. We are convinced that the findings recorded by the 10 are based on clinching evidence. The punishment imposed against the applicant is also commensurate with the acts of indiscipline, proved against him.”

4. Learned counsel for the petitioner would submit that the Tribunal without detail findings on the pleas advanced on behalf of the petitioner has dismissed the Original Application.

5. According to him, it is the case of the petitioner that though the charge against the petitioner is of receiving illegal gratification of Rs.1,000/-, no recovery has been effected, even the video recording, on which reliance has been placed, was also not clear. He submits the case of the petitioner is that there is no evidence for the Inquiry Officer to prove the charge against the petitioner. He states, appropriate shall be, the matter is remanded back to the Tribunal for a fresh consideration on all the pleas advanced on behalf of the petitioner.

6. Mr. Nitesh Kumar Singh, on the other hand justifies the order of the Tribunal stating that the Tribunal has rightly come to a conclusion in para 6 that there is some basis for the Inquiry Officer to prove the charge against the

petitioner.

7. We are not in agreement with the submission made by Mr. Nitesh Kumar Singh. It should have been appropriate for the Tribunal to consider all the pleas advanced on behalf of the petitioner and had rendered a reasoned and speaking order.

8. Accordingly, we deem it appropriate to set aside the impugned order passed by the Tribunal and remand the matter back to the Tribunal for fresh consideration in accordance with law. For this purpose, the Original Application is revived on the Board of the Tribunal. The O.A. 4580/2014 shall now be listed before Joint Registrar of the Tribunal for a preliminary hearing on May 29, 2023.

9. Suffice to state, this Court has not expressed itself on the merits of the contentions raised insofar as the challenge to the orders of Disciplinary Authority / Appellate Authority.

10. Petition stands disposed of.

11. At this stage, learned counsel for the petitioner submits appropriate shall be the Original Application is decided along with two other connected Original Applications, as the impugned order in the Original Application arises from joint proceedings held against the petitioner and the petitioners in other two Original Applications. Counsel for the petitioner shall be at liberty to make such a request before the Tribunal for its consideration.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

MAY 9, 2023/R