

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of decision: May 24, 2023*

+ W.P.(C) 7176/2023, CM APPL. 27957/2023
R S BHATIA Petitioner
Through: Mr. R.A. Sharma and Mr. K.K. Mishra, Advs.

Versus
DELHI DEVELOPMENT AUTHORITY AND
ANR Respondents
Through: Mr. Arun Birbal and Mr. Sanjay Singh, Advs. for DDA.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 27957/2023

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 7176/2023

1. The challenge in this petition is to an order dated May 19, 2022 passed by the Central Administrative Tribunal (Principal Bench) in OA 1532/2015. Though the Tribunal vide the aforesaid order had decided two Original Applications only one applicant namely R.S. Bhatia has approached this Court by way of this writ petition challenging the impugned order.

2. The challenge in the OA was to the disciplinary proceedings initiated against the petitioner which resulted in penalty of 20% cut in pension for a period of five years. The

appeal filed thereof was also dismissed. The Tribunal dismissed the petition by stating in paragraph 10 as under:

“10. In the instant case, we find that a common enquiry had been conducted against the applicant and other co-defaulters, as per the prescribed procedure and in accordance with principles of natural justice. The applicant has participated in the enquiry proceedings and has been given ample opportunity to defend himself. The IO, after assessing the evidence adduced, has concluded that the charges against the applicant and other co-defaulters are proved. The DA on the basis of the IO's report has imposed the impugned penalty on other co-defaulters. We are of the view that the punishment awarded by the DA is quite reasonable and is commensurate with the misconduct committed by the applicant. We, therefore, find no procedural lapse in holding of the disciplinary proceedings, nor any violation of the principles of natural justice.”

3. The submission made by the learned counsel appearing for the petitioner is that the order of the Tribunal is an unreasoned one. In other words, the Tribunal did not deal with the grounds raised and urged by the petitioner before the Tribunal.

4. On the other hand, Mr. Arun Birbal, learned counsel appearing for the respondent would justify the order of the Tribunal inasmuch as the finding of the Tribunal is not perverse as there was sufficient material on record of the Tribunal to come to a conclusion that charges have been rightly proved by following principles of natural justice. He submits that the punishment awarded is reasonable as the same commensurate with the misconduct committed by the petitioner.

5. We are unable to agree with the submissions made by Mr. Birbal for the reason that the finding of the Tribunal which we have reproduced in paragraph 10 above only state that the principles of natural justice have not been violated and the penalty imposed by the disciplinary authority is reasonable as the same commensurate with the misconduct committed by the petitioner. Suffice to state, the challenge by the petitioner is not confined to the above aspect. Even otherwise the Tribunal has to consider / deal with the fact situation to hold, that the impugned action is justified. Surely, the order of the Tribunal is an unreasoned one without dealing / considering the grounds urged by the petitioner in the OA.

6. Accordingly, we deem it appropriate to set aside the impugned order and remand the matter back to the Tribunal for a fresh consideration by reviving the Original Application on the Board of the Tribunal with a direction that the Tribunal shall hear the counsel for the parties afresh and pass a reasoned and a speaking order.

7. We deem it appropriate to list the matter before the Registrar of the Tribunal on July 10, 2023 for direction.

8. The writ petition is disposed of.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

MAY 24, 2023/jg