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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11400 OF 2024

Union of India & Ors.

.. Petitioners

Versus

Ombir Yadav

.. Respondent

Ms. Vaishali Choudhari for petitioners.

Mr. Ombir Yadav, respondent-in-person, present.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
AMIT BORKAR, J.**

DATE: 19th AUGUST, 2024

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- 1.** Rule. Rule made returnable forthwith.
- 2.** With the consent of the learned counsel representing the petitioners and the respondent-in-person, who is present in Court, the Court proceeds to hear and dispose of the matter finally.
- 3.** This petition, under Article 226 of the Constitution of India, assails the validity of the Judgment and Order dated 10th October, 2023 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai (hereinafter referred to as "the Tribunal") in Original Application No. 573 of 2023, which was instituted by the respondent before the Tribunal.
- 4.** By the impugned Judgment and Order, the Tribunal, while rejecting the plea of the respondent in respect of

challenge to the charge memorandum dated 19th June, 2023, has only issued certain directions to the petitioner no.2 herein for appointing an officer of the rank of Admiral Superintendent in the Naval Headquarters to act as Disciplinary Authority of the respondent and further to appoint an officer not connected with the Naval Dockyard, Mumbai and conduct the disciplinary inquiry against the respondent in terms of the provisions of Rule 14 of Central Civil Services (Classification, Control & Appeal) Rules, 1965.

5. The aforesaid direction in the impugned Judgment and Order of the Tribunal has been issued in the interest of justice and only with a view to provide the respondent fair opportunity to place his defence in the disciplinary proceedings and to ensure that whatever defence is taken by the respondent is considered in an unbiased and uninfluenced manner by an authority not having close proximity with the office of the Admiral Superintendent, Naval Dockyard, Mumbai.

6. Submission of the learned counsel for the petitioners is that by issuing such a direction, the Tribunal has divested the Admiral Superintendent at Naval Dockyard, Mumbai of his powers and authority which he enjoys to act as Disciplinary Authority without according any reason therefor. She has also argued that such a direction, whereby the Tribunal has directed to change the Disciplinary Authority and the Inquiry Officer, will set a wrong precedent and hence, the Judgment of the Tribunal is not sustainable.

7. On the other hand, the respondent, who is present in-person in Court has supported the Judgment of the Tribunal.

8. Having considered the submissions made on behalf of the respective parties and perused the record available before us on this writ petition, we are of the considered opinion that the instant petition is based on mere apprehensions. What all has been done by passing the impugned Judgment and Order that the Tribunal has required the petitioner no.2 to appoint an officer of the rank of Admiral Superintendent at the Naval Headquarters to act as Disciplinary Authority. The Disciplinary Authority, otherwise, of the respondent is the Admiral Superintendent, Naval Dockyard, Mumbai and since the Tribunal, by the impugned Judgment and Order has appointed an officer of the same rank to act as Disciplinary Authority, of course, with a rider that such Admiral Superintendent should be posted at Naval Headquarters, New Delhi, we do not see any illegality in such a direction. The reason for us to arrive at such a conclusion is that the Tribunal has clearly stated in the impugned Judgment and Order that such an appointment is directed to be made only in the interest of justice and to ensure that the respondent is accorded with the fair opportunity to place his defence and also for ensuring that such defence is considered by an authority who is unbiased or uninfluenced or not in close proximity with the office of Admiral Superintendent, Naval Dockyard, Mumbai. The said observations have been made by the Tribunal keeping in view the apprehension expressed by the respondent in his Original Application, wherein it appears that the respondent had stated that on account of certain complaints against the office of Admiral Superintendent, Naval Dockyard, Mumbai, he may not receive fair treatment in the disciplinary proceedings.

9. The submission of the learned counsel for the petitioners that the Admiral Superintendent, who is the Disciplinary Authority of the respondent under the Rules is being divested of his authority by the impugned Judgment and Order passed by the Tribunal, in our considered opinion, is not tenable. The direction has been issued by the Tribunal to appoint Disciplinary Authority who shall be the officer of the rank of Admiral Superintendent; the only rider is that such Admiral Superintendent should be posted at Naval Headquarters, New Delhi. Such an arrangement, as already observed above, has been ordered by the Tribunal in the peculiar facts and circumstances of the case where respondent had expressed certain apprehensions about he not being given fair treatment during the course of disciplinary proceedings. We also notice that Tribunal has issued such a direction, but the impugned Judgment does not cast any insinuation or aspersion against the Admiral Superintendent, Naval Dockyard, Mumbai. The direction has been issued to appoint another Admiral Superintendent to act as Disciplinary Authority only to ensure that fair opportunity is provided to the respondent in the disciplinary proceeding. Such a direction, in our opinion, does not amount to divesting the Disciplinary Authority of his powers.

10. As far as the submission of the learned counsel for the petitioners that the impugned Judgment rendered by the Tribunal will set wrong precedent is concerned, we may only observe that the direction issued by the Tribunal in the impugned Judgment is only to achieve the interest of justice and has been passed in the peculiar facts and circumstances

of the case and, accordingly, it is not that the Tribunal has laid down any principle of law which may act as binding precedent.

11. For the aforesaid reasons, we are not inclined to interfere in the present writ petition, which is accordingly dismissed. Rule is discharged.

12. There shall be no order as to costs.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)