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

+ **W.P.(C) 1970/2024**

NEW DELHI MUNICIPAL COUNCIL (NDMC) Petitioner

Through: Ms. Rashmi Chopra, Standing Counsel with Ms. Sriparna Chattarjee, Addl. Standing Counsel with Mr. Soumitra Chatterjee, Ms. Fiza Chopra and Mr. Manish, Advocates.

versus

MR KISHORE PRASAD

..... Respondent

Through: Mr. Tushar Ranjan Mohanty, Ms. Payal Mohanty, Ms. Soumya Punna, Ms. Milind Jain and Mr. Ashutosh Pinjan, Advocates.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

12.02.2024

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CAV 63/2024

1. Since learned counsel for the respondent enters appearance, the caveat stands discharged.

CM APPL. 8258/2024 -Ex.

2. Exemption allowed, subject to all just exceptions.

3. The application stands disposed of.

W.P.(C) 1970/2024 and CM APPL. 8257/2024 -Stay.

4. The present writ petition under Article 226 of the Constitution of



India seeks to assail the order dated 23.11.2023 passed by the learned Central Administrative Tribunal in O.A 907/2020. Vide the impugned order, the learned Tribunal has allowed the original application preferred by the respondent, and has consequently set aside the penalty order dated 19.03.2019, along with the charge sheet and enquiry report, based on which the order dismissing the respondent from service was passed. The learned Tribunal has also set aside the appellate order dated 19.06.2019, vide which the petitioner's appeal against the order dated 19.03.2019 was rejected.

5. Learned counsel for the petitioner submits that the impugned order is wholly perverse and is liable to be set aside as the learned Tribunal has proceeded to examine the merits of the charges against the respondent, and erroneously held that no charge sheet could have been issued to the respondent. She submits that the learned Tribunal has overstepped its jurisdiction in quashing the charge sheet and therefore prays that the impugned order be set aside.

6. Issue notice. Mr. Mohanty accepts notice on behalf of the respondent and submits that even if this Court were to accept the petitioner's plea that the charge sheet issued to the respondent could not have been quashed, there were various other substantial grounds raised by the respondent which were not even considered by the learned Tribunal. He, therefore, prays that the matter be remanded back to the learned Tribunal for fresh adjudication on merits after considering all the grounds raised by the respondent.

7. In the light of the aforesaid stand taken by the learned counsel for the respondent, we are of the view that it would be in the interest of justice to set aside the impugned order and remand the matter back to the learned Tribunal for fresh consideration of the OA on merits after giving an



opportunity to both sides to urge all the pleas raised in their pleadings. The impugned order is accordingly set aside and the matter is remanded back to the learned Tribunal for deciding the O.A afresh in accordance with law.

8. It is, however, made clear that while remanding the matter back to the learned Tribunal, this Court has not expressed any opinion on the correctness of the findings in the impugned order, and therefore, it will be open for the learned Tribunal to take the same view, if deemed appropriate after considering all grounds and pleas as may be, raised by the parties.

9. The writ petition is accordingly allowed in the aforesaid terms.

10. List before the Registrar for directions on 11.03.2024.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

FEBRUARY 12, 2024/ib