



2024:DHC:9875-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4058/2023, CM APPLs. 15854/2023 & 27994/2024**
C. MAHESHWARANPetitioner
Through: Mr. Roopansh Purohit and Mr.
Harsh Panwar, Advs.

versus

UNION OF INDIA & ORS.Respondents
Through: Mr. Ajay Jain, Sr. PC with Ms.
Bijay Lakshmi, Mr. Harshit, Ms. Gaurashi,
Mr. Krishna Sharma, Mr. M.N. Mishra and
Mr. Manoj, Advs. with Mr. Deepak Tanwar,
GP with Mr. Rajdev Kumar and Mr. Amogh
Samarth, Advs. UOI

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

JUDGMENT (ORAL)

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18.12.2024

C.HARI SHANKAR, J.

1. This writ petition is directed against an order dated 15 December 2022, passed by the Central Administrative Tribunal¹ in MA 2531/2022 in OA 978/2022².

2. The petitioner was issued a charge sheet on 5 July 2018, proposing to initiate disciplinary proceedings against him. Challenging the very issuance of the charge sheet, the petitioner filed OA 978/2022 before the Tribunal. During the pendency of the

¹ "the Tribunal", hereinafter
² (C. Maheshwaran v UOI)



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proceedings in the OA, the petitioner filed MA 2531/2022 seeking stay of further disciplinary proceedings.

3. By order dated 15 December 2022, the Tribunal has rejected the prayer for stay, noting the fact that the contentions advanced by the petitioner would be available to him at a later stage of the disciplinary proceedings even after conclusion of the inquiry. Thus, the right of the petitioner to take up the said grounds after the inquiry report was submitted was reserved by the Tribunal.

4. During the pendency of these proceedings, we are informed that the Inquiry Officer has submitted his report, but the Disciplinary Authority has yet to pass any order on the basis of the said report. It is clearly open to the petitioner to urge, before the Disciplinary Authority, the contentions advanced by the petitioner before this Court in the present proceedings.

5. Ordinarily, we are not inclined to interfere, in exercise of our jurisdiction under Article 226 of the Constitution of India, with interlocutory orders passed by the Tribunal unless they result in irreversible or irreparable prejudice to the party concerned. In the present case, the ground urged by the petitioner is available to him not only before the Disciplinary Authority but also before the Tribunal itself before whom OA 978/2022 is still pending.

6. Mr. Roopansh Purohit, learned Counsel for the petitioner sought to submit that the issue in controversy is fully covered by the judgments of this Court and that, therefore, continuance of the

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disciplinary proceedings would be at travesty of justice.

7. We are not inclined to interfere in the matter on the basis of this contention, for two reasons.

8. The first is that, if we are to return an observation in this writ petition, on the contention advanced by Mr. Purohit, it may well result in a *fait accompli* before the Tribunal, which would probably be left with nothing further to decide, at least insofar as the jurisdiction of the authority issuing the charge sheet is concerned. We are loath to do so, even while the OA is pending.

9. Secondly, the issue in controversy does not appear to be as straightforward as Mr. Purohit would make it appear. The controversy appears to be as to whether the charge sheet could be issued with the approval of Minister of State and whether the allocation of work by the Union Minister to the Minister of State in that regard amounted to a valid delegation so as to render the charge sheet issued by a competent authority.

10. This issue, in our view is contentious and is arguable.

11. We do not deem it appropriate to return any finding in that regard till the Tribunal applies its mind to the said issue, especially as we do not function as a Court of first instance in such matters, following the judgment of the Supreme Court in *L. Chandra Kumar v UOI*³.



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12. We, therefore, reserve liberty with the petitioner to take up all these arguments as well as any other argument available to the petitioner before the Tribunal at the stage of arguments in the OA as well as before the Disciplinary Authority in any representation which may be filed against the inquiry report.

13. In either event, the Tribunal or the authority concerned would not be bound by the observation contained in the impugned order dated 15 December 2022 passed by the Tribunal.

14. Subject to the aforesaid limited observations, this writ petition is dismissed.

C. HARI SHANKAR, J.

ANOOP KUMAR MENDIRATTA, J.

DECEMBER 18, 2024/aky

Click here to check corrigendum, if any