



\$~2

*

+

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 1324/2011

GNCT OF DELHI

..... Petitioner

Through: Mr.Naushad Ahmed Khan with
Ms.Supriya Malik, Mr.Akshit Tyagi, Adv.

versus

SUSHMA SOLOMON

..... Respondent

Through: Mr.Padma Kumar S, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

22.03.2024

%

CM APPL. 2773/2024 -E-hearing

1. This is an application for early hearing filed by the respondent.
2. Learned counsel for the petitioner has no objection to the application being allowed.
3. In the light of the aforesaid, the application is, for the reasons stated therein, allowed and the matter is, with the consent of the parties, taken up for disposal today itself.

W.P.(C) 1324/2011

4. The present petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 14.09.2010 passed by the learned Central Administrative Tribunal in O.A.348/2010. Vide the impugned order, the learned Tribunal has allowed the Original Application (OA) and, has consequently, set aside the modified



penalty imposed by the Disciplinary Authority by accepting the respondent's plea that the said order was passed in violation of Rule 14(18) of CCS(CCA) Rules and was, therefore, unsustainable.

5. Learned counsel for the petitioner submits that the impugned order is wholly perverse as the learned Tribunal failed to appreciate the circumstances in which the fresh penalty order came to be passed. Furthermore, merely because the counsel for the petitioner did not appear on one date, the learned Tribunal instead of adjourning the matter, hastened to allow the OA without giving reasonable opportunity to the petitioner to present its case.
6. On the other hand, learned counsel for the respondent seeks to support the impugned order and contends that once it was evident from the record that provisions of Rule 14(18) of CCS(CCA) Rules had been blatantly violated, the learned Tribunal was justified in setting aside the penalty order. After some arguments, he contends that the impugned order was passed without considering the stand of the petitioner. He, however, submits that various grounds had been raised by the respondent, but have not been considered by the learned Tribunal as it allowed the OA only on the ground of violation of Rule 14(18) of CCS(CCA) Rules by the petitioner.
7. Having considered the submissions of learned counsel for the parties, we are of the considered view that taking into account that the respondent was duly represented on all earlier dates; it was not a fit case where the learned Tribunal should have proceeded to decide the OA *ex parte* without granting another opportunity to the petitioner to present its case. Furthermore, taking into account the respondent's



plea that various other substantial grounds raised by her before the learned Tribunal were not considered, we are of the opinion that it will be in the interest of justice to set aside the impugned order and remand the OA back to the learned Tribunal for fresh adjudication on merits.

8. The writ petition is, accordingly, disposed of by setting aside the impugned order and remanding the OA back to the learned Tribunal for fresh adjudication of the same on merits by taking into account all the grounds as may have been raised by the respondent in her OA. Furthermore, since the matter has remained pending for the last many years, we request the learned Tribunal to endeavour to decide the O.A. within a period of six months.
9. List before the learned Registrar, Central Administrative Tribunal on 23.04.2024 for further proceedings.

REKHA PALLI, J

DR. SUDHIR KUMAR JAIN, J

MARCH 22, 2024

sr