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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 29.04.2024***

+ W.P.(C) 12944/2023, CM APPL. 51008/2023 - Stay

COMMISSIONER OF POLICE AND ORS. Petitioners

Through: Mrs. Avnish Ahlawat, Standing Counsel,
GNCTD (Services)

versus

RAVINDER SINGH Respondent

Through: Mr. Sachin Chauhan, Adv.

CORAM:**HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MR. JUSTICE SAURABH BANERJEE****SAURABH BANERJEE, J (ORAL)**

1. The present writ petition under Articles 226 & 227 of The Constitution of India seeks to assail the order dated 17.07.2023 passed by the learned Central Administrative Tribunal (Tribunal) in OA No.2091/2021. Vide the impugned order, the learned Tribunal has allowed the OA preferred by the respondent, thereby setting aside the dismissal order dated 18.12.2020 passed by the petitioners dismissing the respondent from service under Article 311(2)(b) of The Constitution of India, as also the appellate order dated 06.07.2021 passed against him. The learned Tribunal has, however, granted liberty to the petitioners to initiate disciplinary proceedings against the respondent in accordance with law.
2. The brief factual matrix as may be necessary for adjudication of the present petition may be noted at the outset.



3. The respondent was appointed as a Constable (Exe.) in the Delhi Police on 25.05.2018. Whereafter, on 29.11.2020 an FIR was registered against him under Sections 419/420/467/468/34/120B of the Indian Penal Code, 1860 and under Sections 3/6/8/10 of UP Public Examination (Prevention of Unfair Means) Act, 1998 at P.S.: Noida Sector-58, District Gautam Budh Nagar, Uttar Pradesh. Consequently, vide order dated 04.12.2020 he was placed under suspension w.e.f. 30.11.2020. Pursuant thereto, in a preliminary enquiry held, vide order dated 18.12.2020, the respondent was dismissed from service under Article 311(2)(b) of The Constitution of India without holding a regular departmental enquiry. Thereafter, the respondent preferred a statutory appeal before the appellate authority, which was rejected on 06.07.2021. Thereafter, the respondent approached the learned Tribunal by way of the above OA, which has been allowed by the learned Tribunal under the impugned order.

4. Hence the present petition.

5. Learned counsel for the petitioners submits that the impugned order is bad in law as the learned Tribunal has failed to appreciate the reasons furnished by the petitioners in the dismissal order dated 18.12.2020. She submits that the conduct of the respondent was unbecoming of a police personnel since he, alongwith his associates, was found to be involved in a racket formed for the purposes of impersonation and cheating in the recruitment examination conducted by the Staff Selection Commission for the post of Constable (Exe.) in the Delhi Police. She further submits that since the respondent was a police personnel, no witness would have come forward to depose against him and the petitioners were, therefore, justified in dismissing him without holding any enquiry. She therefore, prays for



setting aside of the impugned order.

6. On the other hand, learned counsel for the respondent, while supporting the impugned order passed by the learned Tribunal, submits that the dismissal order passed by the petitioners was liable to be set aside as it was merely based upon conjectures and surmises. He submits that the learned Tribunal had quashed the dismissal order against the respondent after finding that no cogent reason was provided by the petitioners for either dispensing with the departmental enquiry against the respondent or to show that there was a possibility of him threatening the concerned witnesses. He further submits that in these circumstances, the learned Tribunal was justified in holding that the dismissal order against the respondent, had been passed in a very casual manner. He submits that once a preliminary enquiry had already been conducted, there is no reason why a regular departmental enquiry on the serious charges levelled against the respondent could not have been conducted. Furthermore, the learned Tribunal has, despite setting aside the dismissal order passed by the petitioners, granted them liberty to initiate disciplinary proceedings against the respondent. It is thus prayed that the present writ petition be dismissed.

7. Having considered the submissions of the learned counsel for the parties and perused the record, prior to proceeding any further we wish to reproduced hereinbelow the relevant extracts contained in paragraph nos. 9 to 11 of the impugned order as under:-

“9. However, no cogent reason has been given on behalf of the respondents as to why the Order/ Judgment in the case of Ct. Sumit Sharma (supra) is not applicable in the present case. The learned counsel for the respondents has merely reiterated his submissions as noted above. Further, we find that nothing has been recorded in the impugned order(s) or shown to us that the applicant had ever threatened or harassed any of the witness(es) and/or the prospective



witness(es). Further there is no evidence or document to indicate that in view of the facts and circumstances of the case, any efforts was made by the respondents to summon the witness(es) to lead the evidence. It is also not the case of the respondents that resorting to regular enquiry, the relation with foreign countries was likely to be adversely affected. From the impugned orders, it is evidently clear that neither any effort was made by them to conduct the enquiry nor there is any evidence that in spite of their best efforts, the respondents had not been able to produce the witness(es) to lead evidence against the applicant and further nothing is brought on record that witness(es) has/have been threatened by the applicant or they are too scared of the applicant to come forward in the regular enquiry proceedings. It is also found that the disciplinary authority while passing the impugned order has very casually come to the conclusion that it would not be possible to conduct the departmental enquiry against the applicant and there is a possibility that witness(es) may not come forward to depose against the applicant.

10. Keeping in view the above observations, such acts/orders of the respondents are not only in violation of the settled law but also of their own aforesaid instructions/ dated 11.9.2007. Hence, we are of the considered view that reasons given by the respondents for dispensing with the enquiry are not in consonance with the law settled by the Hon'ble Supreme Court, Hon'ble High Courts and followed by this Tribunal in a catena of cases, a few of which are referred to herein above.

11. Having regard to the aforesaid facts and circumstances of the present case, we are of the considered view that this case is squarely covered by a catena of cases relied on behalf of the applicant, including the common Order/Judgment dated 10.2.2022 in *Ct. Sumit Sharma (supra)* and a batch of cases. Therefore, the present OA deserves to be partly allowed and the same is accordingly partly allowed with the following directions:- (i) Orders dated 18.12.2020 and dated 06.07.2021 passed by the disciplinary and appellate authorities respectively are set aside; (ii) The applicant shall be entitled to all consequential benefits in accordance with the relevant rules and law on the subject; (iii) The respondents shall implement the aforesaid direction within eight weeks of receipt of a copy of this order; and (iv) However, the respondents shall be at liberty to initiate disciplinary proceedings against the applicant in accordance with the law."

8. It is thus apparent from above that the impugned order passed by the learned Tribunal is not only based on the earlier decision dated 10.02.2022 passed by the same learned Tribunal in OA No. 1383/2020 titled ***Ct. Sumit Sharma v. Govt. of NCT of Delhi and Ors.*** but also after a careful perusal



of the dismissal order dated 18.12.2020. Interestingly, a perusal of the said dismissal order dated 18.12.2020 reflects that the reason given by the petitioners for dispensing with the enquiry does not, in fact, fall within the ambit of Article 311(2)(b) of The Constitution of India. The same can be borne out from the reasons recorded for dispensing with the enquiry therein.

The relevant extract thereof are reproduced as under:-

“Prima facie the facts have revealed that Constable (Exe.) Ravinder Singh No. 3161/OD alongwith his associate was into the racket of putting false candidates in place of genuine candidate in the examination of recruitment of Constable in Delhi Police by SSC. This very act of Constable (Exe.) Ravinder Singh No. 3161/OD has even challenged the fair policy of recruitment of SSC, Constable Ravinder Singh No. 3161/OD along with his associates, under a deep rooted conspiracy, attempted to get candidates selected into this examination by unfair means. Constable Ravinder Singh No. 3161/OD has brought bad name to Delhi Police by his present act. A wrong message has gone to the entire Delhi Police for his such criminal act.

The action of Constable (Exc.) Ravinder Singh No. 3161/OD amounts to gross negligence, grave misconduct and is highly unbecoming of a Police officer, Constable Ravinder Singh No. 3161/OD being in influential position, holding a proper departmental enquiry is impracticable as the victim and other witnesses would not be in a position to depose against him. His misconduct is such that if he is allowed to continue in the Police force, it would be detrimental to public interest and shall further tarnish the image of the Police force in society.

The act committed by Constable (Exe) Ravinder Singh No. 31610D warrants an exemplary punishment. It requires that a prompt and instant punitive action of highest order be taken against him to send a clear message to such undesirable person and to prevent the recurrence of such crime, Being part of disciplined force, his act and misconduct attract the provision of article 311(2) (h) of a Constitution of India. He has indulged himself in the most abominable act which is not expected from an official of a uniformed force and it will not be reasonably practicable to conduct a re departmental enquiry against Const. (Ese) Ravinder Singh No. 3161100. I am personally satisfied that conducting a regular DE against Const. (Pixe Ravinder Singh No. 3161/OD will make a considerable long pened and a not practicable possible.

9. At the outset, we wish to state that we are in complete consonance with the findings arrived at by the learned Tribunal, *firstly*, as there is no



doubt in our minds about the findings arrived at by the learned Tribunal in *Ct. Sumit Sharma (supra)* and *secondly*, as the petitioners were wrong in dispensing with the conducting of a disciplinary enquiry and that too without any cogent, proper and/ or substantive reasons for doing so. In our view also, such dispensation of the disciplinary enquiry and that too without any reasons is very much against the basic enshrined principles of natural justice.

10. Further, in our opinion if the petitioners were of the view that it was a fit case for dispensing with the inquiry, they were required to pass a well-reasoned and speaking order rather than passing it in a mechanical manner. Having not done so, the order passed by the petitioners is vague showing rather non-application of mind leaving too many dots left to be joined.

11. We find that the petitioners have been passing similar orders in similar situations from time to time. We hope that, henceforth, the petitioners will not only take note of the same, but, also be mindful and wary of not doing so again.

12. In fact, this Court while dealing with similar facts and circumstances involving the very same petitioner herein, has in *Commissioner of Police and Ors v. Sant Ram*, 2024:DHC:3181-DB and *Commissioner of Police Delhi Police and Ors v. Manjeet*, 2024:DHC:3132-DB repeatedly dismissed similar claims of the petitioners herein from time to time.

13. Additionally, since the learned Tribunal has, despite setting aside the dismissal order passed by the petitioners, granted liberty to them to initiate disciplinary proceedings against the respondent, we see no reason for holding otherwise to what has been held by the learned Tribunal in the impugned order.



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14. For the aforesaid reasons and discussions, we find no reason to interfere with the impugned order. The present writ petition is, therefore, dismissed along with all accompanying application.

(SAURABH BANERJEE)
JUDGE

(REKHA PALLI)
JUDGE

APRIL 29, 2024/rr