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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 15073/2022, CM APPL. 46561/2022 –Stay & CM APPL.
21790/2023 -Vac. of stay

COMMISSIONER OF POLICE & ORS.

..... Petitioners

Through: Ms.Avnish Ahlawat, SC, GNCTD
with Mr.Nitesh Kumar Singh, Ms.Laavanya
Kaushik, Ms.Aliza Alam & Mr.Mohnish
Sehrawat, Advs.

versus

DHARAMBIR SINGH

..... Respondent

Through: Mr.V.S.R. Krishna, Mr.T.N.Tripathi
& Mr.Pragyesh Pratap Singh, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

20.03.2024

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1. The present writ petition under Articles 226 & 227 of the Constitution of India seeks to assail the order dated 20.07.2022 passed by the learned Central Administrative Tribunal (Tribunal) in O.A. No.3647/2016. Vide the impugned order, the learned Tribunal has allowed the Original Application (OA) preferred by the respondent/applicant by setting aside the dismissal order dated 19.02.2015 and directing the petitioners to reinstate the respondent with all consequential benefits. The learned Tribunal has, however, granted liberty to the petitioners to initiate disciplinary action against him.
2. In support of the petition, Ms.Avnish Ahlawat, learned counsel for the petitioners submits that the impugned order is wholly perverse and is



liable to be set aside as the learned Tribunal has allowed the OA filed by the respondent without even examining the reasons mentioned by the petitioners in their dismissal order for dispensing with the departmental enquiry. She, therefore, prays that the present petition be allowed in terms of the order dated 14.03.2024 passed by this Court in a batch of writ petitions including ***W.P.(C) 63/2023 titled Commissioner of Police & Ors. vs. Meena Kumari and Ors.*** and the matter be remanded back to the learned Tribunal for fresh adjudication of the OA on merits.

3. On the other hand, Mr.V.S.R. Krishna, learned counsel for the respondent supports the impugned order. However, after some arguments, he is unable to deny that the impugned order does not indicate any consideration of the reasons furnished by the petitioners for dispensing with the enquiry as contained in the dismissal order dated 19.02.2015.
4. Having perused the impugned order, we are inclined to agree with the petitioners and find that the issue raised in the present petition is squarely covered by a decision of this Court in ***Meena Kumari and Ors. (supra)***, wherein it was held as under:

“8. From a bare perusal of the impugned order, we find that the learned Tribunal has allowed the OAs simply on the basis of its earlier decisions in Neeraj Kumar (supra) and in Dharmender Singh Dangi (supra), without any reference to the reasons cited by the petitioners for dispensing with an enquiry. Having perused the dismissal orders, we prima facie find merit in the respondents’ plea that reasons mentioned therein would not fall within the ambit of Article 311(2)(b) of the Constitution of India. Merely because the delinquent employee is a police personnel, would not be the sole ground to dispense



with a departmental enquiry against him. We cannot lose sight of the fact the learned Tribunal has not even referred to the reasons furnished by the petitioners to examine whether the same were sufficient to dispense with an enquiry against them. When a dismissal order passed under Article 311(2)(b) is assailed before the Court, it is incumbent upon the Court to examine the reasons mentioned in the dismissal order for dispensing with the enquiry and then decide whether any interference is called for with the decision of the employer to invoke Article 311 (2)(b) of the Constitution of India. In this regard, reference may be made to a recent decision of this Court, in W.P.(C) 10452/2023 titled Govt of NCT of Delhi And Ors. vs. Ex. Ct. Naeem Khan wherein it was held that the nature of cases where the enquiry can be dispensed with under Article 311 (2) (b), cannot be put in a straight jacket formula; every case is, therefore, required to be considered on its own facts.

9. In the present case, we find that the learned tribunal has allowed the OAs without even referring the reasons provided by the petitioners for dispensing with the enquiry and, therefore, we have no other option but to set aside the impugned orders and remand the matters back to the learned Tribunal for fresh adjudication of the respondents' O.As on merits. While remanding the matter back to the learned Tribunal, it is expected that the Tribunal will consider the reasons furnished by the petitioners for dispensing with enquiry against the respondents and pass a reasoned and speaking order accepting or rejecting the petitioners' explanation. Taking into account that pleadings in the matters are already complete, the Tribunal will make an endeavour to decide the O.As. within three months."

5. In the light of the aforesaid, we allow the present petition by setting aside the impugned order and remand the OA to the learned Tribunal for fresh adjudication of the respondent's OA on merits. While remanding the matter back to the learned Tribunal, it is expected that



the learned Tribunal will deal with the reasons furnished by the petitioners for dispensing with the departmental enquiry against the respondent. Taking into account that pleadings in the matter are already complete, the learned Tribunal is requested to endeavour to decide the matter within three months.

6. List before the learned Registrar of the Tribunal on 10.04.2024. However, taking into account that there was no stay of the impugned order between 20.07.2022 to 31.10.2022, the respondent will be entitled to payment in terms of the impugned order for the aforesaid period between 20.07.2022 to 31.10.2022. The payment in terms of this order will be made to the respondent within a period of four weeks.
7. The petition is, accordingly, disposed of in the aforesaid terms.

REKHA PALLI, J

GIRISH KATHPALIA, J

MARCH 20, 2024

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