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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1847/2022

PANKAJ KUMAR AGARWAL

..... Petitioner

Through: Ms.Shradha Maheshwari, Adv.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr.Rajesh Gogna, CGSC with
Ms.Jayashree, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

21.02.2024

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1. The present writ petition under Articles 226 & 227 of the Constitution of seeks to assail the order dated 22.10.2019 passed by the learned Central Administrative Tribunal (Tribunal) in O.A. No.1712/2016. Vide the impugned order, the learned Tribunal has rejected the petitioner's challenge to the penalty order dated 18.04.2016 vide which he was dismissed from service.
2. Learned counsel for the petitioner submits that impugned order is wholly perverse as even though the petitioner had, in its original application, raised various vital questions going to the root of the matter, the same have not been considered by the learned Tribunal. She submits that the learned Tribunal has neither dealt with the petitioner's plea that one of the complainants, namely Ms.Zhora Matadar did not testify in the inquiry nor dealt with his grievance that the CCTV footage and other documents sought by him, were not supplied to him. She, therefore, prays that the impugned order be set



aside and the matter be remanded back for fresh adjudication on merits.

3. On the other hand, learned counsel for the respondents supports the impugned order by contending that the learned Tribunal has rightly rejected the petitioner's challenge as the order of dismissal was passed by the Disciplinary Authority on the basis of the report furnished by the Inquiry Officer wherein he was held guilty by applying the principle of preponderance of probabilities. He, therefore, prays that the petition be dismissed.
4. Having considered the submissions of learned counsel for the parties and perused the impugned order, we find merit in the petitioner's plea that two vital aspects which go to the root of the matter were not considered by the learned Tribunal. The first being that one of the complainants, namely Ms. Zhora Matadar not testifying in the inquiry and the second being the petitioner's grievance that the CCTV footage and other documents were also not supplied to him despite his repeated requests. A perusal of the impugned order shows that even though the petitioner had specifically urged that copies of the several documents, including the CCTV footage, were not provided to him, the Tribunal has simply rejected this plea by holding that these were forming part of the record.
5. We are, therefore, of the view that the impugned order is liable to be set aside by remanding the matter back to the learned Tribunal so that the petitioner is granted an opportunity to effectively urge all his grounds challenging to the dismissal order.



6. The writ petition is, accordingly, allowed by setting aside the impugned order dated 22.10.2019. The matter is remanded back to the learned Tribunal for fresh adjudication of the original application filed by the petitioner on merits.
7. It is, however, made clear that this Court has not expressed any opinion on the rival claims of the parties and therefore, it will be open for the learned Tribunal to adjudicate his original application on its own merits.
8. List before the learned Registrar of the Central Administrative Tribunal on 12.03.2024 for directions.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

FEBRUARY 21, 2024/kk