

Sh. Dilip Singh Vs. Union of India and ors.

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Court : Delhi

Decided On : Feb-27-2013

Judge : Valmiki J. Mehta

Appellant : Sh. Dilip Singh

Respondent : Union of India and ors.

Advocate for Def. : Mr. Alakh Kumar

Advocate for Pet/Ap. : Mr. Abhay Singh, Ms. Yasmin Zafar

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + WP(C) No.1026/1997 %
February 27, 2013 SH. DILIP SINGH Through: Petitioner Mr. Abhay Singh,
Advocate with Ms. Yasmin Zafar, Advocate. versus UNION OF INDIA AND ORS.
Through: Respondents Mr. Alakh Kumar, Advocate. CORAM: HONBLE MR.
JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not? VALMIKI J.

MEHTA, J (ORAL) 1. This writ petition was filed by the petitioner challenging the order dated 28.5.1996 whereby the petitioner was dismissed from services.

2. Before me, the only point which is urged on behalf of the petitioner is that after the report of the enquiry officer was received, and which exonerated the petitioner on some charges, the disciplinary authority upset the findings of the enquiry officer by holding the petitioner guilty without giving a hearing to the petitioner. The disciplinary authority on disagreeing with the findings of the enquiry officer

imposed a penalty of dismissal from services on the petitioner. It is therefore argued before me that with respect to those charges for which the petitioner was exonerated by the enquiry officer, before the disciplinary authority passed an order to set aside such findings of the enquiry officer qua those charges, the petitioner ought to have been personally heard.

3. I have perused the record which is brought of the departmental proceedings. There is no record of the disciplinary authority showing that any written notice was given to the petitioner that the disciplinary authority proposes to set aside the conclusions and findings of the enquiry officer and the petitioner is thus called for a hearing. Though the noting of the disciplinary authority records that petitioner was present, however, signatures of the present petitioner do not appear in the noting to show that the petitioner was ever present. Also, there is nothing on record to indicate that the petitioner was informed of the proposed action by the disciplinary authority to set aside the findings of the enquiry officer.

4. In view of the aforesaid position, since the petitioner had been prejudiced by the action of the disciplinary authority whereby the disciplinary authority had passed WP(C) No.1026/1997 an order against the petitioner for Page 2 of 3 dismissal from services by setting aside the findings and conclusions of the enquiry officer qua some of the findings inasmuch as the petitioner was not given any hearing, the impugned order dated 28.5.1996 is set aside for the limited purpose of the disciplinary authority giving a personal hearing to the petitioner and whereafter the disciplinary authority may pass its orders in accordance with law.

5. For the sake of clarification, I note that it is agreed by the petitioner that though the impugned order dated 28.5.1996 is set aside, the effect thereof will however remain till a fresh order is passed by the disciplinary authority, but in case the disciplinary authority does not pass an order of removal of the petitioner from services, then, the disciplinary authority will pass appropriate consequential orders. The disciplinary authority will after hearing the petitioner pass its orders within a period of three months from today. The petitioner or his counsel will be given a written notice of the date of hearing which is fixed before the disciplinary authority.

6. Writ petition is disposed of with the aforesaid observations. VALMIKI J.

MEHTA, J FEBRUARY 27 2013 Ne

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