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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 10539/2021

SATISH CHANDRA VERMA ..... Petitioner

Through: Mr. Sudhanshu Batra, Senior Advocate with Mr. Suroor Mander, Mr. Sarim Naved, Mr. Bhuvan Gugnani and Mr. Kamran Javed, Advocates

versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr. Tushar Mehta, Solicitor General of India with Mr. Chetan Sharma, ASG, Mr. Arun Bhardwaj, Senior Advocate with Mr. Harish Vaidyanathan, CGSC, Mr. Piyush Gaur, Mr. Abhishek Sharma, Mr. Gauraan, Mr. Srish Kumar Mishra, Mr. Sagar Mehlawat and Mr. Alexander Mathai Paikaday, Advocates for R-1 to 5 along with Mr. S.S.Sejwal, Legal Officer, MHA.
Ms. Manisha Lavkumar, Senior Advocate with Mr. Ravi Kant Jain, Advocates for R-9/State of Gujarat (through VC).

CORAM:
HON'BLE MR. JUSTICE SANJEEV SACHDEVA
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

% 26.09.2022

C.M. No. 42463/2022 (Amendment)

1. This is an application on behalf of the petitioner seeking to amend the petition. It is contended by learned senior counsel for the

petitioner that during pendency of the present petition certain subsequent events have transpired which have necessitated the amendment. He submits that initially the petitioner had impugned judgment dated 22.07.2021 of the Tribunal whereby the Tribunal had declined to quash the charges framed against the petitioner, however pending this petition the departmental enquiry has concluded with an order of dismissal having been passed and as such petitioner intends to amend the present petition.

2. Issue notice. Notice is accepted by Mr. Harish Vaidyanathan Shankar, Advocate on record appearing for the respondents.

3. Learned Solicitor General appearing for the respondent submits that without prejudice to their rights and contentions they have no objection to the amendment being allowed and the amended petition being taken on record.

4. In view of the above, the application is allowed. Amended Petition is taken on record.

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1. Let counter affidavit to the Amended Petition be filed within eight weeks. Rejoinder within four weeks thereafter.

2. List on 24.01.2023, the date already fixed.

CM APPL. 42464/2022 (Stay)

1. Issue notice. Notice is accepted by learned counsel appearing for the respondents.

2. Petitioner impugns order dated 30.08.2022 whereby the

representation of the petitioner impugning the enquiry report dated 02.12.2020 has been rejected and in exercise of powers conferred under Rule 7(2) of the All India Services (Discipline and Appeal) Rules, 1969 a penalty of "dismissal from service, which shall ordinarily be a disqualification for future employment under the Government" has been imposed with immediate effect.

3. The allegations against the petitioner *inter-alia* are that he interacted with public media on 2nd and 3rd March, 2016 in an interview with a news channel at the official premises of North Eastern Electric Power Corporation at Guwahati without any authorisation or permission from the competent authority and spoke unauthorizedly on the matters which were not within the sphere of his duties.

4. It is further alleged that he had made statement of fact and opinion on his communication over public media in a matter of an encounter which had the effect of an adverse criticism of encounter of the Central Government and the State Government and capable of embarrassing the relations between the two Governments and also capable of affecting the relationship of India with the neighbouring country. It is further alleged that he did not make it clear that the views expressed by him were his own and not that of the Government.

5. Petitioner was further charged with communicating official information with regard to interrogation of a senior officer in the Government with regard to contents of the affidavit filed by Government of India before the High Court of Gujarat.

6. Petitioner was further charged with providing information into investigation about the terrorist/non terrorist character of a terrorist who was killed in an encounter in Gujarat and interrogation of a senior officer in connection with the said case and also gave out personal details of officials dealing with the said case at the Ministry of Home Affairs and State levels and in house procedures in dealing with sensitive case wherein foreign terrorists were involved which has the ramification to personal safety and issues relating to national security.

7. The enquiry officer has concluded that the articles of charge have been proved.

8. Learned senior counsel for the petitioner does not dispute that an interview was given to a reporter of a news channel but states that the same was given under compelling circumstances. He, however *inter-alia* contends that the contents of the interview have not been proved in accordance with law.

9. It is not in dispute that the petitioner had given an interview to a news channel pertaining to aspects which were not within the sphere of his duties at the time when the interview was given. The interview also pertained to aspects which were sub-judice.

10. We have perused the contents of the transcript of the interview that has been placed on record as also the enquiry report. We are of the view that at this stage the order of termination dated 30.08.2022 does not warrant any interference as petitioner is to superannuate, in any event, on 30.09.2022. Consequently, we are not inclined to stay

or interdict the order of dismissal dated 30.08.2022 at this stage.

11. Let reply be filed within eight weeks. Rejoinder within four weeks thereafter.

12. It is clarified that in case petitioner is successful in the writ petition petitioner shall be entitled to all consequential benefits of his superannuation in accordance with rules.

13. List on 24.01.2023.

14. The original record of the enquiry shall be produced in the Court on the next date of hearing.

15. Order *dasti* under the signature of the Court Master.

SANJEEV SACHDEVA, J

TUSHAR RAO GEDELA, J

SEPTEMBER 26, 2022
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