

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.191/2017

Tuesday, this the 7th day of February 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Mr. P C Garg
aged about 50 years
designation Under Secretary
s/o late Mr. Mool Chand Garg
r/o KC-68/7, Kavi Nagar
Ghaziabad (UP)

..Applicant

(Dr. Ashwani Bhardwaj and Ms. Bhawna Massey, Advocates)

Versus

Union of India through the Special Secretary (RAW)
Cabinet Secretariat
Room No.7, Bikaner House
Shahjahan Road, New Delhi

..Respondent

(Mr. Gyanendra Singh, Advocate along with Mr. Bhagirath Jha,
Under Secretary (Legal))

O R D E R (ORAL)

Justice Permod Kohli:

Counter affidavit has been filed. In the counter affidavit, the respondent has reiterated the stand taken in the impugned order by reproducing paragraph 9 thereof. While issuing notice, it was noticed that on examination of impugned order *prima facie* it appears that no reasons have been recorded. It was under these circumstances the respondent was directed to file a short affidavit to disclose whether any reasons have been recorded or not. From the perusal of the counter affidavit, we find that no reasons have been recorded. Thus, what emerges is neither in the impugned order nor otherwise any reasons have been recorded.

2. The Hon'ble High Court while remitting the matter back to the disciplinary authority made certain observations, viz. that the representation of the petitioner shall be decided sympathetically considering all factors, including the past conduct of the petitioner, and the fact that the CBI has submitted a closure report thereby giving a clean chit to the petitioner. Unfortunately, the disciplinary authority has not even considered the observations of the Hon'ble High Court. Even without such observations, it was obligatory upon the disciplinary authority to have recorded the reasons while disposing of the representation. Since the impugned order is without any reasons and even the counter affidavit does not disclose any reasons having been recorded in the files of the respondent, the impugned order is liable to be set aside on account of total non-application of mind, that too, despite observations by the Hon'ble High Court.

3. This O.A. is accordingly allowed. Impugned order is hereby set aside and the matter is remitted back to the disciplinary authority to pass a fresh reasoned and speaking order dealing with all the issues raised by the applicant in the representation dated 20.10.2015, within a period of one month. No order as to costs.

Order **dasti**.

(**K.N. Shrivastava**)
Member (A)

(**Justice Permod Kohli**)
Chairman

February 7, 2017
/sunil/