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

% *Date of Decision: 31.01.2023*

+ W.P.(C) 14280/2021 & CM APPL. 45001/2021, 45002/2021 & 20307/2022

SUJIT SAURABH Petitioner
Through: Mr. Tarun Chandhiok &
Mr. Varun Chandhiok,
Advs.

versus

HIGH COURT OF DELHI THROUGH ITS
REGISTRAR GENERAL Respondent
Through: Mr. Kapil Dutta, SSC with
Mr. Anuj Bhargava, Adv..

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J.

1. The petitioner, a judicial officer with the Delhi Judicial Service, has filed the present petition being dissatisfied by the grades awarded to him for the years 2017, 2018 & 2019. He is also aggrieved by the annual confidential remarks communicated to him by memoranda dated 14.03.2019, 25.01.2021 & 08.10.2021, respectively. The petitioner also seeks implementation of the judgment of the Division Bench of this Court in *Sujata Kohli v. Registrar General, High Court of Delhi: (2018) 252 DLT 599 (DB)* and the judgement of the Supreme Court in *All India Judges' Association and Ors. v. Union of India and Ors.:*

(1993) 4 SCC 288.

2. The petitioner was awarded grade 'B' for the years in question. He made a representation for upgrading his grade for the years 2018, which was rejected.

3. The present petition was taken up for hearing on 17.12.2021. On that date this Court had passed the following order:-

“1. Issue notice. Mr. Kapil Dutta accepts notice on behalf of the High Court of Delhi.

2. The petitioner has preferred the present writ petition to seek the quashing of his Annual Confidential Remarks for the years 2017, 2018 & 2019 communicated to him vide a Memoranda dated 14.03.2019, 25.01.2021 & 08.10.2021 respectively. The grievance of the petitioner is that his representation made on 20.02.2021, has been rejected without assigning any reasons thereof. The petitioner seeks a direction for re-appraisement of his performance for the Assessment Years 2017, 2018 & 2019. He also seeks implementation of the judgment of a Division Bench of this Court in ***Sujata Kohli Versus Registrar General, High Court of Delhi***, (2018) 252 DLT 599 (DB), and the judgment of the Supreme Court in ***All India Judges' Association Versus Union of India***, (1993) 4 SCC 288. We may observe that the petitioner has been graded "B" for all these years.

3. Mr. Dutta – who appears on advance notice on behalf of the respondent High Court of Delhi, submits that so far as the year 2017 is concerned, the petitioner has not made any representation till date. Since the petitioner has that avenue available for him,

we deem it appropriate to direct that this writ petition itself may be considered as a representation of the petitioner for the year 2017 by the respondent, and the representation be decided as expeditiously as possible in accordance with law.

4. So far as the year 2018 is concerned, Mr. Dutta informs us that the petitioner was awarded censure on 21.08.2018, which is a minor penalty. The effect of the said penalty, though it may be relating to incidents of earlier years, would impact the assessment in the year in which the penalty is imposed.

5. The respondents have produced the record relating to inspection of the petitioner's work and conduct for the year 2018, which shows that his work in the first quarter was very good, and the same was inadequate in the second, third and fourth quarters. The censure was imposed upon him by way of punishment in respect of two complaints: dated 14.03.2017 – of one Shri Arvind Kumar Gupta, Chief Manager, PNB Minto Road Branch, New Delhi regarding misbehaviour, and the communication dated 06.11.2017 of Ms. Poonam A. Bamba, District & Sessions Judge, Patiala House Courts, New Delhi alongwith the complaint dated Nil of HC Pradeep regarding dereliction of duty. A departmental inquiry under Rule 16(1)(b) of CCS (CCA) Rules, 1965 was undertaken for imposition of minor penalty, and the Full Court vide a decision dated 01.08.2018 imposed a penalty of censure upon the petitioner. At this stage, we may observe that this fact has not been disclosed by the petitioner in the present writ petition, which was not expected of the petitioner

considering that he himself is a judicial officer and would be aware of the fact that he has to come to the Court with clean hands. In the light of the aforesaid, we are not inclined to entertain the present writ petition so far as petitioner's grading for the year 2018 is concerned.

6. So far as the year 2019 is concerned, Mr. Dutta states that the representation of the petitioner is still pending consideration before the Committee, and a decision thereon would be taken after hearing the petitioner.

7. In response to our query as to what is the status with regard to implementation of the judgment of the Division Bench in *Sujata Kohli* (supra) is concerned, we are informed by Mr. Anil K. Jain – an Officer of the High Court of Delhi, that the process of implementation of the said judgment is underway. Considering the fact that the judgment was rendered on 21.08.2018, and the same is to operate prospectively, we are of the view that the High Court should expedite the implementation of the said judgment within the next three months. We are informed that the Supreme Court has affirmed the aforesaid judgment in *Sujata Kohli Vs. Registrar General High Court of Delhi* (2020) 14 SCC 58, decided 24.04.2020.

8. List the matter on 05.05.2022 for reporting further progress with regard to the consideration of the petitioner's representation for the years 2017 & 2019, and also with regard to implementation of the judgement in *Sujata Kohli* (supra) rendered by the Division Bench.”

4. It is apparent from the above that this court found no reason to fault the grade awarded to the petitioner for the year 2018. At the material time, the petitioner's representation for upgrading his grade for the year 2019 was pending. The petitioner was also permitted to make a representation in respect of his grade for the year 2017.

5. Pursuant to the aforesaid order, the petitioner's representations for the years 2017 and 2019 were considered by the Court and the same were rejected.

6. The petitioner now seeks to assail the decision rejecting his representations. Insofar as the grade awarded to the petitioner for the year 2017 is concerned, this Court finds that there were complaints against the petitioner during the said year. One of the complaints related to his conduct and misbehavior, which was examined by the concerned Committee of this court. The Committee had also interacted with the petitioner. The concerned Committee did not escalate the complaint for initiating any disciplinary proceedings but decided to counsel the petitioner.

7. The grade awarded to the petitioner was after considering various other factors. It is also relevant to note that the petitioner was awarded a minor penalty of censure in the year 2018, although the same was related to an earlier incident.

8. There is no allegation that the petitioner's evaluation is *malafide* or capricious. In the circumstances, we are unable to accept that the petitioner's evaluation for the year can be interfered with in these proceedings

9. Insofar as the year 2019 is concerned, the petitioner's disposal of cases was found to be inadequate in all four quarters. The petitioner had made a representation giving an explanation for inadequate disposals.

10. The records indicate that the concerned Committee had also interacted with the petitioner and had recorded his request to treat his representation as a 'mercy petition.' The concerned Committee had found no justification for inadequate disposal and, accordingly, rejected the petitioner's representation for upgradation in the said year.

11. This Court is informed that the petitioner has been awarded a higher grade in the year 2021 and the appraisal for the year 2020 is pending.

12. We find no ground to interfere with the petitioner's assessment for the year 2017, 2018 & 2019.

13. Insofar as the implementation of the decision of the Division Bench in *Sujata Kohli v. Registrar General, High Court of Delhi* (*supra*) is concerned, this Court is informed that the concerned Committee has been formed by the Hon'ble Chief Justice of this Court to lay down the road map for the purpose of implementation of the said decision. It is expected that the said decision would be fully implemented shortly.

14. In these circumstances, no orders are required to be passed in this regard.

15. The petition is disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

JANUARY 31, 2023
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Signature Not Verified

Digital Signature
By: Dushyant Rawal
Signing Date: 03.02.2023

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