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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 290/2025, CM APPL. 26505/2025, CM APPL. 26506/2025, CM APPL. 26507/2025 & CM APPL. 26508/2025

G L SAGARAppellant
Through: Mr. S.D. Singh, Mr. K. Prasad,
Ms. Meenu Singh, Mr. Siddharth Singh,
Advs.

versus

EDCIL INDIA LTD.Respondent
Through: Mr. Saurabh Mishra, Ms.
Aashnaa Bhatia, Ms. Bhumi Agrawal and
Mr. Shrimay Mishra, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

% **ORDER**
07.05.2025

CM APPLs. 26507/2025 & 26508/2025 (Exemptions)

1. Exemptions allowed, subject to all just exceptions.
2. The applications stand disposed of.

LPA 290/2025, CM APPL. 26505/2025 & CM APPL. 26506/2025

3. We are constrained to note that the appellant has been driven to file the present Letters Patent Appeal purely on account of corporate high-handedness on the part of the respondent.

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4. For the purposes of the present order, a limited allusion to facts would suffice.

5. The appellant was subjected to disciplinary proceedings, which culminated in an order of dismissal dated 9 September 2008 and the dismissal of the appeal, preferred thereagainst, on 20 February 2009. The appellant approached this Court by way of WP (C) 11487/2009, challenging the inquiry report dated 6 June 2008, the dismissal order dated 9 September 2008 and appellate order dated 20 February 2009.

6. WP (C) 11487/2009 was decided by a learned Single Judge of this Court on 31 August 2015. The learned Single Judge noted the fact that, before passing the order of dismissal, the Disciplinary Authority had not issued any note of disagreement with respect to the findings of the Inquiry Officer which were in favour of the appellant. The learned Single Judge, therefore, allowed WP (C) 11487/2009 on the sole ground that no disagreement note had been issued by the Disciplinary Authority prior to dismissing the appellant from service. The Disciplinary Authority was, therefore, directed to issue a note of disagreement so that the appellant could represent against the said note and a fresh order could be passed by the Disciplinary Authority.

7. Notably, the appellant was also held entitled to reinstatement with 50% backwages w.e.f. the date of his termination i.e., 9 September 2008 till reinstatement.

8. The aforesaid order dated 31 August 2015 passed by the learned Single Judge in WP (C) 11487/2009 was assailed by the respondent

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by way of LPA 111/2016. The Division Bench of this Court dismissed the said LPA by judgment dated 19 February 2016.

9. The matter was carried by the respondent to the Supreme Court by way of SLP (C) 7569/2016, which was also dismissed by the Supreme Court by order dated 29 March 2016.

10. The appellant was, thereafter, reinstated in service on 6 April 2016 with 50% backwages as directed by the learned Single Judge and affirmed upto the Supreme Court.

11. In accordance with the directions issued by the learned Single Judge in his judgment dated 31 August 2015 in WP (C) 11487/2009, the respondent issued a fresh Disagreement Note dated 5 May 2016 to the appellant.

12. The appellant responded to the said Disagreement Note.

13. The response of the appellant was found unsatisfactory and the appellant was again dismissed from service by order dated 28 May 2016. The appeal preferred thereagainst was dismissed by the Appellate Authority on 7 September 2016.

14. This persuaded the appellant to re-approach this Court by way of WP (C) 10023/2016, challenging the Disagreement Note dated 5 May 2016, the dismissal order dated 28 May 2016 and the appellate

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15. The said writ petition came to be decided by a learned Single Judge of this Court by way of judgment dated 31 January 2025. The learned Single Judge was of the opinion that the Disagreement Note dated 5 May 2016 was not tentative, as was the requirement in law, following the judgment of the Supreme Court in ***Yoginath D Bagde v State of Maharashtra***¹, but expressed a conclusive opinion regarding the culpability of the appellant.

16. Accordingly, the learned Single Judge set aside the Disagreement Note dated 5 May 2016, *dismissal order dated 28 May 2016 and the appellate order dated 7 September 2016*, rejecting the appeal filed by the appellant against the order of dismissal. We may reproduce, to advantage, paras 22 and 23 of the judgment of the learned Single Judge, thus:

“22. It is pertinent to note that in the earlier round of litigation, when W.P. (C) 11487/2009 was allowed on 31.08.2015, remanding the matter back to DA on the ground that no Disagreement Note was issued, the Court had carefully and cautiously extracted relevant passages from the judgment of the Supreme Court in ***Yoginath D. Bagde (supra)*** and the judgment of the Division Bench of this Court in ***K.C. Sharma***², which clearly lay down that Disagreement Note must be tentative, yet the DA chose to issue the impugned Disagreement Note with a final opinion, completely oblivious of the settled law and the judgment dated 31.08.2015. This only sheds light on how adamant the Disciplinary Authority was to implicate the Petitioner. In my view, the impugned Disagreement Note cannot be sustained in law.

23. Accordingly, the writ petition is partially allowed, quashing the impugned order dated 07.09.2016, Disagreement Note dated 05.05.2016 and penalty order dated 28.05.2016. Matter is remanded back to the Disciplinary Authority for issuing a fresh Disagreement Note, in case the Disciplinary Authority decides to proceed against the Petitioner at this stage. The Disagreement Note

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and further proceedings will be in consonance with the principles elucidated by the Supreme Court in the aforementioned decisions. If the Petitioner is aggrieved by the decision taken, he will be at liberty to take recourse to legal remedies. It is made clear that if the Disciplinary Authority decides to proceed, the entire exercise will be completed within two months from today, considering the number of years that have elapsed and the number of litigations Petitioner was compelled to undertake. It is also made clear that this Court has not expressed any opinion on the merits of the case.”
(Emphasis supplied)

17. We may note that prior thereto, on 30 November 2017, the appellant had attained the age of superannuation. Despite the order passed by this Court in WP (C) 11487/2009, which stood affirmed till the Supreme Court, the appellant has admitted not been paid a single paisa by way of retiral benefits.

18. On 4 February 2025, the appellant addressed a representation to the respondent, seeking disbursal of his retiral benefits with effect from the date of his superannuation, in view of the judgment dated 31 January 2025 of the learned Single Judge in WP (C) 10023/2016.

19. That was, needless to say, never done.

20. The respondent instead challenged the impugned order before this Court by way of LPA 187/2025. That LPA was also dismissed by this Bench by judgment dated 10 March 2025. It does not appear that the said decision was taken up in further appeal.

21. Even after the dismissal of LPA 187/2025 by this Court, the appellant was not paid his retiral benefits.

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22. Mr. Saurabh Mishra, learned Counsel for the respondent, submits, however, that a fresh note of disagreement stands issued by the respondent to the appellant.

23. Thus, while the respondent was acting with commendable haste in complying with the order of the learned Single Judge to issue a Disagreement Note to the appellant, the respondent, for reasons which we do not deem it appropriate to enter into at this juncture, seems to have chosen to ignore the fact that *the learned Single Judge had set aside the appellant's order of dismissal from service as well as his appellate order.*

24. Mr. Saurabh Mishra, learned Counsel for the respondent, attempted to convince us that the order dated 31 January 2025 of the learned Single Judge granted only limited relief, by way of directing the respondent to issue a fresh Disagreement Note.

25. We are truly surprised at this submission. It is clear from the order of the learned Single Judge that *the learned Single Judge not only set aside the Disagreement Note dated 5 May 2016 but also the consequential termination order dated 28 May 2016 as well as the appellate order dated 7 September 2016.*

26. The submission of Mr. Mishra that the order of the learned Single Judge only granted limited relief *vis-a-vis* the Disagreement Note dated 5 May 2016, therefore, merely requires to be urged to be

~~rejected.~~

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27. As the respondent did not respond to the appellant's representation dated 4 February 2025, seeking disbursal of retiral benefits to the appellant, consequent to the judgment dated 31 January 2025 of the learned Single Judge, and has not even granted the retiral benefits after LPA 187/2025 was dismissed by this Court on 10 March 2025, the appellant has chosen to file the present appeal.

28. Strictly speaking, the appellant does not have any grievance against the order of the learned Single Judge. However, the appellant submits that the respondent is taking advantage of the fact that the order of the learned Single Judge does not categorically direct reinstatement of the appellant.

29. Be that as it may, we are constrained to observe that, in the aforementioned facts, the *bona fides* of the respondent may be seriously in doubt.

30. We do not deem it necessary to express any final opinion in this regard without affording the respondent an opportunity to respond to the present appeal, in the peculiar facts of this case.

31. In the facts of this case, however, we deem it appropriate, while issuing notice in the present appeal, to direct the respondent to forthwith disburse, to the appellant, the retiral benefits due to him with effect from the date of his superannuation i.e., 30 November 2017.

32. The said retiral benefits would be disbursed within a period of three weeks from today. Failure to disburse the said amounts within

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the said period shall entitle the appellant to interest at the rate of 9% per annum till the date of disbursal.

33. The grant of the said retiral benefits to the appellant would, however, remain subject to the outcome of the present appeal.

34. Issue notice, returnable on 14 July 2025.

35. Notice is accepted on behalf of the respondent by Mr. Saurabh Mishra.

36. Given the peculiar facts of this case, we permit the respondent to file a reply to the appeal within a period of four weeks from today with advance copy to learned Counsel for the appellant, who may file rejoinder thereto, if any, within four weeks thereof.

37. In the meanwhile, the respondent would, after the expiry of four weeks from today, file a report of compliance with the directions passed hereinabove with regard to disbursal of the retiral benefits of the appellant.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

MAY 7, 2025

dsn/AS

[Click here to check corrigendum, if any](#)

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