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**BEFORE THE HON'BLE LOKAYUKTA
GOVT. OF NCT OF DELHI
G-BLOCK, VIKAS BHAWAN,
I.P.ESTATE, NEW DELHI**

Complaint No.C-28/Lok/2006/1433

IN THE MATTER OF:

Shri Ravinder Balwani
C-6A, 80B, LIG Flats
Janak puri,
New Delhi-110 058.

.....Complainant

Versus

1. Smt. Sheila Dixit
Chief Minister of GNCTD
Delhi Sachivalya
I. P. Estate
New Delhi
2. Sh. S. R. Sethi
Director(Operations)
Delhi Transco Limited
1st floor, Shakti Sadan
Kotla Marg, Rouse Avenue
New Delhi -2

ORDER

Shri Ravinder Balwani hereinafter referred to (as complainant in order to facilitate the reference) filed the present complaint against two public functionaries i.e. Smt. Sheila Dixit, Chief Minister, GNCTD and Sh. S. R. Sethi, Director (Operations), Delhi Transco Ltd.

Registrar of this Tribunal, after going through the complaint, was of the view that the said complaint was not maintainable against the above said two public functionaries in as much as the complainant has failed to make out a case against the said public functionaries within the meaning of section 2(b) of the Delhi Lokayukta and Uplokayukta Act, 1995, hence the same was not maintainable and thus liable to be dismissed.

In view of the above, I thought it fit in the interest of justice to issue a show cause notice, to the complainant herein, as to how the complaint was maintainable against the said two public functionaries.

In response to the said show cause notice, the complainant appeared before this Tribunal on 26.10.06 the date fixed for hearing the arguments.

The complainant argued his case in person. I have heard the complainant at sufficient length and have very carefully given my anxious thoughts to the arguments advanced by him yet I found myself unable to agree with the contentions raised by him.

The complainant has urged before this Tribunal that Smt. Sheila Dixit, CM, Government of NCT of Delhi has abused her powers and has mis-conducted herself in recommending/forwarding the name of Sh. S. R. Sethi to the LG for his appointment as Director (Operations), DTL. I am sorry I am unable to agree with the contention of the complainant. CM,GNCTD

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is not an Appointing Authority of Director (Operations) in DTL. Hon'ble LG of Delhi is the only competent authority to do the needful. Once a file is moved before the Chief Minister with a proposal, a duty has been cast on her shoulders to forward the same to the LG because LG is the only competent authority to pass necessary orders thereon. She could not have withheld the said file as in that eventuality she would have been guilty of misconduct, un-becoming of a public functionary. Thus, I feel Smt. Sheila Dixit neither abused her powers nor mis-conducted herself by forwarding the said file to the LG. Rather I am of the view that whatever she did was her duty and she did not act beyond the functions assigned to her.

The next contention raised by the complainant before me was that Sh.S.R.Sethi was appointed as Director (Operations) DTL after his retirement. According to the complainant, Sh.S.R.Sethi retired after attaining the age of superannuation i.e. 60 years and hence he should not be re-employed and his re-employment is in contravention of OM No. 26012/6/2002/Estt(a) dated 9/12/02 of Ministry of Personnel, P.G. & Pensions (Deptt of Personnel & Training), GOI. He has in this connection led me through para-9 of the said notification which is in the following words:-

“No proposal for employing a government servant beyond the age of superannuation of 60 years shall be considered. It is also clarified that no person can be appointed/re-appointed to Central Government service after the age of superannuation of 60 years through contract.”

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Thus the complainant has contended that the employment of Sh. S.R. Sethi after his retirement was in violation of the Rules and conditions of the Govt. of India.

According to the complainant the Chief Minister mis-led and mis-guided the Hon'ble LG by forwarding the file pertaining to re-employment of Sh.S.R.Sethi to LG. The contention of the complainant to say the least is puerile. I have already observed above that CM was under an obligation to forward the same. The re-employment was granted/sanctioned by the LG, thus the grievance, if any, of the complainant should be against the LG and not against the CM.

The complainant has assailed re-employment of Sh.S.R.Sethi by Delhi Govt. by impleading him as Respondent. In the present case the grievance of the complainant is that Mr. S. R. Sethi is favouring his friends, colleagues and his near & dear ones by making them payment for attending the office during vacations though they do not come to the office on the said date. If it is so the complainant is advised to make complaint against Mr. S.R.Sethi to the higher ups instead of approaching this Tribunal. In any case the complainant has not placed even a tiny piece of paper in order to prima facie show that Mr. S.R. Sethi is doing such things.

The other contention raised by the complainant before this Tribunal was that this Tribunal is in-competent to dismiss the

complaint in limini. Once the complaint is lodged, it should be taken to its logical conclusion i.e. an enquiry should be made. The contention of the complainant is no doubt an ingenious one but can be brushed aside within an anon. Had the contention of the complainant been true, then this Tribunal would be reduced to a mere machine in as much as the Tribunal in that eventuality would be required to make an inquiry in all the false and frivolous complaints filed by a complainant. This cannot be the intention of the legislature. I feel a Lokayukta is required to go through and make the enquiry into the genuine complaints and not into the frivolous complaints which are made to harass the public functionaries.

In the circumstances stated above, I do not see any force in the present complaint. The complaint is dismissed in limini.

Dated: 31.10.2006

Mohd Shamim

**JUSTICE MOHD. SHAMIM
LOKAYUKTA, DELHI**

*Recd
ML
31/10/06
Ravinder Belywani,
Complainant*