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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1031/2002
AND
O.A.NO.1027/2002

Thursday, this the 18th day of April, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

O.A NO.1031/2002

Jitender
S/o Shri Surat Pal,
Aged 34 years, Ex-Gardner,
In O/O Dy Director (Horticulture) VI/D,
Horticulture Division-II,
13, MSO Building, IP Estate,
PWD, Govt. of NCT, New Delhi-110 002
R/o Vill: Jalal Pur (Dhindar),
Po Dhindar, Distt. Ghaziabad, UP

... Applicant

(By Advocate : Shri Arun Bhardwaj-III)

Versus

1. Govt. of Delhi,
Through its Secretary,
Public Works Department,
Delhi Secretariat,
IP Estate,
New Delhi-110 002

2. Director
(Horticulture) VI/D,
Horticulture Division-II,
13, MSO Building, IP Estate,
PWD, Govt. of NCT,
New Delhi - 110 002

3. Dy. Director (Horticulture) VI/D,
Horticulture Division-II,
13, MSO Building, IP Estate,
PWD, Govt. of NCT
New Delhi - 110 002

... Respondents

O.A.NO.1027/2002

Satpal,
S/o Sh. Surat Pal
Aged 36 Years, Ex-Gardner,
In O/O Dy. Director (Horticulture) VI/D,
13, MSO Building, IP Estate,
PWD, Govt. of NCT, New Delhi-110 002
R/O Vill: Jalal Pur (Dhindar),
PO: Dhindar, Distt. Ghaziabad, UP

... Applicant

(By Advocate : Shri Arun Bhardwaj-III)

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(2)

Versus

1. Govt, of Delhi,
Through its Secretary,
Public Works Department,
Delhi Secretariat,
IP Estate,
New Delhi-110 002
2. Director
(Horticulture) VI/D,
Horticulture Division-II,
13, MSO Building, IP Estate,
PWD, Govt. of NCT,
New Delhi - 110 002
3. Dy. Director (Horticulture) VI/D,
Horticulture Division-II,
13, MSO Building, IP Estate,
PWD, Govt. of NCT
New Delhi - 110 002

..Respondents

O R D E R (ORAL)

By Shri S.A.I. Rizvi, M(A):-

Both these OAs deal with the same case of criminal prosecution and arise from the orders similarly passed by the departmental authorities as well as by the Criminal Courts concerned. The only point of difference is that the two applicants, ^{✓ who} incidentally happen to be brothers have gone to the Allahabad High Court on different occasions and have obtained different orders. In one case, namely, in the case of OA No.1031/2002 the Allahabad High Court has stayed the conviction of the applicant while in the other case (OA No.1027/2002) the High Court has stayed the operation of the order passed by the learned IX Additional Sessions Judge, Ghaziabad, convicting the applicant. We are, in the circumstances, ~~inclined to~~ dispose of both these OAs by this common order.

2. The pleas advanced in both the cases are

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(3)

similar. Firstly, according to the learned counsel appearing on behalf of the applicants, prior to the imposition of departmental penalty, no opportunity has been given to the applicants in either case in terms of the provision of rule 19 (i) which provides for giving of an opportunity for making a representation against the penalty proposed to be imposed by the departmental authorities. Secondly, the learned counsel argues that once the conviction has been stayed or the operation of the order convicting the applicant has been stayed, the applicants become entitled for being reinstated and alternatively to be placed under suspension. The third argument raised by the learned counsel is in respect of the stipulation made in the orders dated 7.8.2001 to the effect that if the proceedings pending in the High Court against the applicants are not completed within five years, the applicants will never be taken ^{✓ back} in Government service. Such a stipulation, according to him, is against law.

3. Having regard to the aforeslated facts and circumstances, the applicants filed their representations dated 22.1.2002 before the respondent-authority (A-VIII) and to these there has been no response. These are the latest representations filed by them in addition to the representations made earlier on 1.3.2001.

4. Having regard to the submissions made by the learned counsel and the aforeslated facts and circumstances of the cases, we find it just and proper

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to dispose of these OAs at this very stage without issuing notices with a direction to the respondents to consider the aforesaid representations filed by the applicants (both dated 22.1.2002) and pass a reasoned and a speaking order within two months from the date of receipt of a copy of this order.

5. The present OAs are disposed of in the aforesated terms. A copy each of the order be placed on files relating to these OAs.

(S.A.T. Rizvi)

Member (A)

/pkr/

(Ashok Agarwal)

Chairman