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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O. A. NO. 2267/2001 &

M. A. No. 1892/2001

New Delhi this the 11<sup>th</sup> day of October, 2002.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI M.P. SINGH, MEMBER (A)

Ram Pal  
S/o Shri Tula Ram  
R/o Village & P.O. Karawal Nagar  
Delhi-94.

... Applicant

(Shri Yogesh Sharma, proxy for Shri B.B. Raval,  
Advocate)

-versus-

1. N.C.T. of Delhi through  
The Secretary  
(Social Welfare Department)  
Old Sectt.  
Delhi.

2. The Lt. Governor  
Govt. of Delhi, Raj Niwas  
Delhi.

3. The Chief Secretary  
Govt. of NCT of Delhi  
Old Sectt. Delhi.

... Respondents

(By Shri George Paracken, Advocate)

O R D E R

JUSTICE V.S. AGGARWAL:-

MA No. 1892/2001

We are satisfied with the grounds mentioned in  
MA No. 1892/2001 seeking condonation of delay in filing  
OA No. 2267/2001. Misc. Application is allowed.

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OA No.2267/2001

2. Applicant (Ram Pal) had been charge-sheeted for major penalty under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 vide Memorandum dated 27.7.1990. The following charges had been framed against him:-

"Article-I:

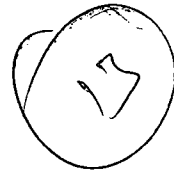
That Shri Ram Pal while working as Care-Taker in R.C.C., Kingsway Camp, Delhi with effect from 26.11.77 to 21.04.81 mis-appropriated Rs.12,810/- by way of receiving advance money through advance receipt issued by various DDO/HO of RCC/KW Camp. He did not submit the adjustment vouchers for the amount received by him in this manner. He deposited back money on 20.05.85 with RCC/KW Camp after being pointed out by the audit party.

Article-II:

That Shri Ram Pal, Care-Taker, RCC/KW Camp committed irregularities by violating the provisions of rule -77 of the Central Treasury Rules issued vide Section-151 of the Govt.of India Act, 1935."

The applicant had denied the charges and an enquiry officer had been appointed. The enquiry officer submitted his report and held both the charges against the applicant proved. The disciplinary authority concluded that the ends of justice would be met if a penalty of removal from service was imposed upon the applicant with immediate effect. The appeal filed by the applicant had been dismissed by the Lt.Governor, Delhi on 3.11.1999.

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3. By virtue of the present application, applicant assails the abovesaid orders contending that the same are improper and not based on materials on the record. During the course of submissions, the learned counsel for the applicant has raised two grounds with which we would presently deal, namely (1) the charges were vague; and (2) the relevant documents were not supplied to the applicant during the course of enquiry and prejudice, therefore, in this regard had been caused.

4. It needs no re-mentioning that the assertions of the applicant have been controverted.

5. So far as the first contention of the applicant is concerned, a perusal of the charges clearly reveals that in a precise manner, the contents of the assertions against the applicant had been conveyed to him and, therefore, it cannot be termed that the charges were vague. Even otherwise also, the said argument is totally devoid of any merit for the simple reason that the articles of charges had been conveyed to the applicant; he had put up his defence and contested the same being fully aware about the nature of the assertions against him. When a person contests the same, in that event unless it is shown that any prejudice is caused, the charges cannot be quashed simply on the ground of subsequently stating that the same are vague. The said prejudice has not been shown to have caused and this argument, therefore, must fail.

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6. Reverting to the second ground raised by the learned counsel as already pointed above, the argument proceeds on the premise that the relevant documents had not been supplied. In the case of *State of Tamil Nadu v. Thiru K.V.Perumal & Ors.*, JT 1996 (6) S.C.604, the Supreme Court was concerned with the question about non-supply of documents and whether prejudice must be shown to have been caused or not. The Supreme Court held that the enquiry officer is not bound to supply each and every document asked for by the delinquent. Only relevant documents have to be supplied to the delinquent. It must be decided whether the documents were relevant and whether their non-supply would cause prejudice to the concerned person or not. The Supreme Court held that it is even the duty of the delinquent to point out as to how each and every document was relevant. The findings of the Supreme Court reads:-

"The Tribunal seems to be under the impression that the enquiry officer/disciplinary authority is bound to supply each and every document that may be asked for by the delinquent Officer/employee. It is wrong there. Their duty is only to supply relevant documents and not each and every documents asked for by the delinquent officer/employee. In this case the respondent had asked for certain documents. The Registrar, to whom the request was made, called upon him to specify the relevance of each and every document asked for by him. It is not brought to our notice that the respondent did so. The Tribunal too has not gone into the question nor has it expressed any opinion whether the documents asked for were indeed relevant and whether their non-supply has prejudiced the respondent's case. The test to be applied in this behalf has been set out by this Court in *State Bank of Patiala v.*

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S.K.Sharma [JT 1996 (3) SC 722 = 1996 (3) SCALE 202]. It was the duty of the respondent to point out how each and every document was relevant to the charges or to the enquiry being held against him and whether and how their non-supply has prejudiced his case. Equally, it is the duty of the Tribunal to record a finding whether any relevant documents were not supplied and whether such non-supply has prejudiced the defendant's case. Since this has not been done by the Tribunal in this matter, it has to go back for a rehearing."

Almost identical is the subsequent judgement of the Supreme Court in the case of State of U.P. v. Shatrughan Lal & Anr., JT 1998 (6) SC 55. Herein the Supreme Court went on to hold that one of the principles of natural justice is that a person against whom an action is proposed to be taken has to be given an opportunity of hearing. It has to be an effective opportunity of hearing. The documents concerned should be supplied and in para 10, the Supreme Court held:-

"10. It has also been found that during the course of the preliminary enquiry, a number of witnesses were examined against the respondent in his absence, and rightly so, as the delinquents are not associated in the preliminary enquiry, and thereafter the charge sheet was drawn up. The copies of those statements though asked for by the respondent, were not supplied to him. Since there was a failure on the part of the appellant in this regard too, the Tribunal was justified in coming to the conclusion that the principles of natural justice were violated and the respondent was not afforded an effective opportunity of hearing, particularly as the appellant failed to establish that non-supply of the copies of statements recorded during preliminary enquiry had not caused any prejudice to the respondent in defending himself."

7. The position herein is that the applicant asked for certain documents on 15.9.1990. The

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documents asked for were:-

- "1. Audit report of RCC Kingsway Camp for the period 1.4.76 to 31.3.83 prepared by Shri R.K.Tandon, Accounts Officer, Delhi Admn.
2. Advance slips issued by various officers of RCC/KW camp, Delhi.
3. Audit report for the above period of Director Central Revenue Audit, Delhi..
4. Statement of witnesses as shown in Annexure IV if any recorded during preliminary hearing/enquiry.
5. Cash Book of Jama Talasi from 1.4.76 to 31.3.83 maintained by Supdt.R.C.C. Kingsway Camp.
6. Official cash Book from 1.4.76 to 31.3.83 in respect of Poor House & R.C.C. Kingsway Camp, Delhi.
7. Register regulating the entry/exist of persons in Poor House/R.C.C.Kingsway Camp, Delhi.
8. Prescription of Medical Officer, Poor House Hospital for taking the inmates to Hospital (LNJP and other Hospital)
9. Contingent Bill from 1.4.76 to 31.3.83 in respect of Poor House, Kingsway Camp, Delhi.
10. Contingent Bill from 1.4.76 to 31.3.83 in respect of R.C.C.Kingsway Camp, Delhi."

Subsequently, the applicant again addressed another letter to the Commissioner for Departmental Enquiries and the said letter is being reproduced for the sake of facility:-

" I am to refer to the orders passed in the proceeding of Brief Hearing held on 1.10.1993 in the abovenoted case. The position of

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Inspection of listed document is as under:-

S.No.	Particulars of Listed documents	Position as on 21.1.1994
1.	Audit report of R.C.C. for the period from 1.4.76 to 31.3.1986.	Copies of Annexure 'A' & 'B' of the audit report has not been provided so far.
2.	Advance slips amounting to Rs.12810=00	Presenting officer has informed that these slips are not available so far.

It is worthwhile that the presenting officer has taken about 2 years time to provide the listed documents and other relevant record which I may be needed in my defence after the inspections of listed documents are 15-18 years old. Considering those aspects needful may be done.

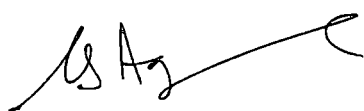
Thanking you,

Yours faithfully,

Dated: 21.1.94

(Ram Pal)  
Care Taker  
Poor House, Kingsway Camp  
Delhi. (Charge-sheeted  
Officer) "


8. The above facts produced before us itself show that if the present matter is examined on the touch-stone of prejudice, if any, the answer has to be in the affirmative. Though in the first instance, a large number of documents were asked for by the applicant and he had not given the relevancy of the same but in the subsequent letter addressed to the Commissioner of Departmental Enquiries, it appears that after inspection of the documents, the applicant complained that copies of Annexures 'A' and 'B' of the audit report had not been provided while advance slips were not available at all. Vide Annexure A/10,






another letter addressed to the Commissioner for Departmental Enquiries, even the relevancy of the audit report and the advance slips had been mentioned besides the relevancy of other documents. According to the applicant, the advance slips had been supplied before conducting the special audit. The nature of the charges clearly indicates that it pertained to mis-appropriation of a particular amount by way of receiving advance money through advance receipts and the adjustment vouchers not having been submitted. The applicant is alleged to have deposited the said amount when it was pointed out by the audit party. When such was the situation, the report of the auditor cannot be termed to be irrelevant. It was, therefore, necessary to supply a copy thereof to the applicant. Prejudice, therefore, can rightly be claimed to have been caused.

9. For these reasons, we allow the present application and set aside the impugned orders. However, if deemed proper, the enquiry can proceed from the stage the applicant had asked for the said documents from the enquiry officer. No costs.

  
(M.P. SINGH)  
MEMBER (A)

  
(V.S. AGGARWAL)  
CHAIRMAN

/sns/