

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.38/2000

New Delhi, this 16th day of April, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J)  
Hon'ble Shri M.P. Singh, Member(A)

Sandeep Kumar  
Warder Roll No.691  
Central Jail, Tihar, New Delhi-64 .. Applicant  
(Shri S.C. Luthra, Advocate)

versus

1. Principal Secretary (Home)  
Govt. of NCT of Delhi  
5, Shamnath Marg, Delhi-54  
2. Addl. DG-Cum-IG (P)  
Prison Headquarters  
Near Lajwanti Chowk, New Delhi-64 .. Respondents

(Shri Vijay Pandta, Advocate)

ORDER(oral)

Smt. Lakshmi Swaminathan, VC(J)

This application has been filed by the applicant challenging the vires of the order of punishment passed by the respondents dated 16.7.1999, whereby a penalty of reduction in pay by three stages for a period of three years has been imposed on him. This order has been upheld by the appellate authority's order dated 17.4.2000.

2. Shri S.C. Luthra, learned counsel has drawn our attention to the appellate authority's order dated 17.4.2000 with reference to the appeal filed by the applicant, copy placed at Annexure A/7 of the paper book. The relevant portion of the appellate authority's order reads as follows:

"I have considered the appeal of the petitioner and gone through the relevant material on record. There is no force in his pleas. The disciplinary authority's order cannot be faulted on any score and

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does not suffer from any lacuna. There is no justification to interfere with the impugned order which is hereby maintained. The appeal is hereby dismissed.

Let the petitioner be informed accordingly."

We have also perused the grounds taken in the appeal by the applicant who has, in particular, stated in paragraph 20 of the appeal that he would like to consolidate the grounds in the succeeding sub-paragraphs of that paragraph and has given 7 sub-paragraphs.

3. A perusal of the appellate authority's order shows that he has not considered each of the grounds taken by the applicant in his appeal or passed a reasoned and speaking order in rejecting the grounds, as required under the relevant rules and the principles of natural justice. He has merely stated that he has gone through the relevant materials on record and there is no force in the applicant's pleas. He has also stated that the disciplinary authority's order cannot be faulted on any score and does not suffer from any lacuna. This does not show that there has been proper application of mind to the pleas taken in the appeal by the applicant.

4. It is settled law that the appellate authority has to pass a speaking and reasoned order as held by the Hon'ble Supreme Court in the Ram Chander Vs. UOI & Ors. 1986 (2) SLJ 249 and S.N. Mukherjee Vs. UOI (1990)(5) SLR S. Respondents' <sup>have p/s</sup> ~~order~~ nowhere shown that the requirement of passing a reasoned and speaking order has been dispensed with, by any rule and under the provisions of the CCS(CCA)

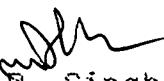
Rules, 1965 under which the applicant has been proceeded against in the Departmental enquiry, the appellate authority ought to have passed a reasoned and speaking order dealing with each of the issues/pleas taken by the applicant which has not been done in the present case.

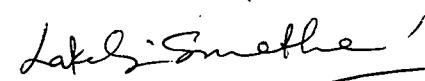
5. In the result, for the reasons given above, this OA partly succeeds and is allowed with the following directions:

(i) Appellate authority's order dated 17.4.2000 is quashed and set aside;

(ii) Respondents are directed to place the appeal before the competent appellate authority to pass a reasoned, detailed and speaking order on the appeal submitted by the applicant within two months from the date of receipt of a copy of this order under intimation to the applicant;

No order as to costs.

  
(M.P. Singh)  
Member(A)

  
(Smt. Lakshmi Swaminathan)  
Vice-Chairman(J)

/gtv/