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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.95/2001

Thursday, this the 30th day of January, 2003

Hon'ble Shri Govindan S. Tampi, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

Shri Raj Singh Kataria
s/o Shri Balbir Singh
working as head warder
Central Jail, Tihar
New Delhi-64

..Applicant

(By Advocate: Shri Sant Lal)

Versus

1. Govt. of NCT of Delhi through
the Principal Secy. (Home)
5, Shamnath Marg, Delhi-54
2. Addl. D.G. cum I.G. (Prison)
Prison Head Quarters
Near Lajwant Chowk
New Delhi-64

..Respondents

(By Advocate: Shri Vijay Pandita)

O R D E R (ORAL)

Shri Govindan S. Tampi:

Order dated 16.7.1999 passed by the Additional D.G.-cum- I.G. (Prison), Disciplinary Authority, order dated 30.1.1999 passed by the Principal Secretary (Home), Appellate Authority and order dated 26.7.2000 once again passed by the Principal Secretary (Home), Revisionary Authority, are under challenge in this OA.


2. Heard S/Shri Sant Lal and Vijay Pandita, learned counsel appearing on behalf of the applicant and the respondents respectively.

3. Applicant working as a permanent Head Warder in Central Jail, Tihar was chargesheeted on 5.8.1997 alleging that he was negligent as he could not ascertain

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the facts regarding the cutting of thumbs of a prisoner and that he could not provide necessary medical help. In the joint inquiry held against the applicant along with three other co-defaulters, the charge was indicated as having been proved, whereafter the Disciplinary Authority imposed on the applicant the penalty of stoppage of three increments for three years without cumulative effect. The Appellate Authority upheld the penalty order which was endorsed by the Revisionary Authority as well. The applicant points out that the inquiry proceedings were held without supplying him the copy of the preliminary inquiry by SDM which formed the basis of the charge. He was also denied the opportunity of proper cross-examination. The Appellate Authority has rejected his appeal by a non-speaking and bald order, which was repeated by the Revisionary Authority. Hence this OA.

4. The grounds raised in this OA, duly reiterated by Shri Sant Lal during the oral hearing, are that:-

- i) the preliminary inquiry conducted by SDM was relied upon by the inquiry officer without supplying a copy of the same,
 - ii) the applicant has been discriminated in that the inquiry officer had exonerated and absolved his co-defaulters while the charge was indicated as having been proved against them,
 - iii) orders passed by the Disciplinary and Appellate Authorities were non-speaking and characterised by non-application of mind,
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- iv) the Disciplinary Authority did not consider the points raised by him in his representation against the inquiry report; and
- v) the Appellate Authority as well as the Revisionary Authority had decided the issue in a totally prejudicial manner.

5. In the reply filed on behalf of the respondents and reiterated during the oral submissions by Shri Vijay Pandita, it is pointed out that the applicant has been penalised for his negligence in duty and that the said penalty has been imposed after following the correct procedure. The applicant had been issued the charge-sheet for his negligence, and the report of the inquiry officer showed that the said charge stood proved. The preliminary inquiry report of the SDM was not made available as the charge-sheet itself explained the nature and content of the allegations. The respondents having conducted the proceedings in a totally correct manner and the applicant having been given the proper opportunity to explain his case, he cannot have any grievance. The OA should, therefore, merit dismissal, according to Shri Vijay Pandita.

6. We have carefully considered the matter. In this case, the applicant has been chargesheeted for his alleged negligence and failure to perform his duties in the incident connected with the cutting of thumbs of a prisoner, under their charge. The penalty imposed by the Disciplinary Authority has been upheld by the Appellate Authority and the Revisionary Authority, the latter two being the same individual.

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7. Perusal of the documents brought on record shows that that the charge against the applicant was based on the preliminary report given by the SDM about ^{the} alleged incident ^{which}, which has not been supplied to the applicant though it has been relied upon. The applicant has, therefore, been denied the opportunity of effective reply explaining his case and putting forth his defence. This action on the part of the respondents has heavily prejudiced the case of the applicant and has nullified his capacity to present a proper defence. This has amounted to violation of the principles of natural justice and is covered by the directions of the Hon'ble Supreme Court in M.D. ECIL, Hyderabad Vs. B. Karunaker [JT 1993 (6) SC 1 explained further in the case of State of U.P. Vs. Harendra Arora & Another [(2001) 6 SCC 392]. The Disciplinary Authority's order is, therefore, clearly vitiated. Coming to the Appellate Authority's order, we find that the said authority had taken into consideration the comments of the Jail Department on the appeal, which means that he was influenced in deciding the appeal by extraneous considerations. That order also is vitiated. The Revisionary Authority's order passed once again by the Principal Home (Secretary), who had acted as an Appellate Authority earlier, has only repeated what has been indicated in the appellate order. That being the case, it is found that all the three orders are vitiated and are liable to be quashed and set aside. At the same time, keeping in mind the incident involving ^{as} injury to an under trial prisoner, which had apparently led to these proceedings, we feel it would be just and fair that the respondents are given an

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opportunity to proceed with the matter once again, but strictly in accordance with law. As considerable time has already lapsed, it would be necessary to fix a specific time frame for completing the proceedings, if they are being pursued.

8. In the above view of the matter, the OA succeeds and is accordingly allowed. The impugned orders dated 1.7.1999, 30.12.1999 and 26.7.2000 are quashed and set aside and the matter is remanded to the Disciplinary Authority with directions to initiate the proceedings, if so advised, from the stage of supplying of the documents, which should include the copy of the preliminary report by the SDM. Thereafter, the inquiry proceedings may continue and the Disciplinary Authority shall take proper decision on the facts, strictly in accordance with law, rules and instructions. The respondents shall, if they intent to continue the proceedings, supply to the applicant the documents referred above within a period of one month from the date of receipt of a copy of this order, whereafter, the applicant shall furnish his response by three weeks. The entire proceedings before the Disciplinary Authority shall be completed within a period of three months from the date of receipt of a copy of the applicant's reply. The Appellate and the Revisionary Authorities are also advised to complete the proceedings, if they reach their level, within one month each. No costs.

S. Raju
(Shanker Raju)
Member (J)

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(Govindan S. Tampi)
Member (A)