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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

DA No.1423/99

New Delhi: this the 7th day of MARCH, 2001.

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN(A).

HON'BLE DR.A.VEDAVALLI, MEMBER(J)

Tilak Ram,
Head Security Guard,
NOIDA Export Processing Zone,
Ministry of Commerce,
Govt. of India,

NOIDA

.....Applicant.

(By Advocate: Shri Rajeev Sharma)

Versus

1. Union of India
through its Secretary,
Ministry of Commerce,
Udyog Bhawan,
New Delhi.

2. Development Commissioner,
NOIDA Export Processing Zone,
NOIDA Dadri Road, Phase II,
NOIDA.

3. Deputy Development Commissioner,
NOIDA Export Processing Zone,
NOIDA Dadri Road, Phase II,
NOIDA.

.....Respondents.

(By Advocate: Shri K.R.Sachdeva)

ORDER

S.R.Adige, VC(A):

Applicant impugns the disciplinary authority's order dated 3.7.98 (Annexure-1) and letter dated 6.11.98, by which applicant contends his appeal has been rejected.

2. Applicant was proceeded against departmentally on the allegation that he as Head Security Guard at Noida Export Processing Zone, while posted at Security Gate No.1 on 3.12.96, and charged with the duty of supervising, controlling and monitoring the work of Security Guards so that no goods moved out of the zone without legal documents, colluded with S/Shri Raj Kumar and Ganga Prasad, both Security Guards, and facilitated the illegal

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removal of dutiable goods worth Rs. 2.55 lakhs by one Shri Atul Pundir of M/s World Tex Ltd., in anticipation of illegal gratification through Shri Raj Kumar who had received Rs. 10,000/- from Shri Pundir.

3. The Inquiry Officer in his report (Annexure-2) held the allegations as not proved.

4. Thereupon the disciplinary authority in his letter dated 17.2.98 (Annexure-3) referred the case back to the Inquiry Officer to look into the facts afresh, in the light of the contents of the letter and give his findings.

5. The Inquiry Officer in his report dated 23.3.98 (Annexure-4) again concluded that the allegations against applicant could not be proved.

6. Disagreeing with the Inquiry Officer's findings, the disciplinary authority issued notice dated 27.5.98 (Annexure-5) to applicant to show cause why a major penalty should not be imposed upon him. The reasons for disagreement were contained in the body of the show cause notice.

7. Meanwhile applicant had been placed under suspension w.e.f. 6.12.96.

8. Applicant submitted his representation on 8.6.98 (Annexure - H).

9. Upon consideration of the representation, and the other materials on record, the disciplinary authority concluded that applicant had committed grave misconduct by absenting himself from the main gate deliberately and without any justifiable reason and in addition

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also sending Shri Raj Kumar , Security Guard away from the Main Gate at the time of removal of 5 bales of cotton fabric illegally and unauthorisedly between 10 a.m. and 11 a.m. on 3.12.96. Accordingly by impugned order dated 3.7.98 the basic pay of applicant was reduced by two stages from Rs.4500 p.m. to 4300 p.m. in the time scale of Rs.4000-6000 for a period of 2 years w.e.f. 3.7.98 during which applicant would not earn increments, but which would not ^{have} [harm] the effect of postponing future increments.

10. Applicant has not filed copy of letter dated 6.11.98 by which he claims his appeal was rejected. In fact applicant's appeal was rejected by appellate order dated 3.6.99, a copy of which has been annexed by respondents with their reply.

11. Although applicant had adequate time as well as opportunity to seek amendment of the OA to impugn the aforesaid appellate order dated 3.6.99 he has not done so, and that appellate order therefore stands.

12. Even in applicant's rejoinder filed on 19.1.2000 over 7 months after the appellate order was passed, the appellate order has not been challenged on merits. All that has been stated in regard to the appellate authority's order, is what is contained in para 11 of the rejoinder which is thus

"The appeal was submitted by applicant but as required under law appeal was rejected without assigning reasons."

13. A perusal of the aforesaid appellate order dated 3.6.99 makes it clear that it is a detailed speaking and reasoned order, and applicant's contention

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that his appeal has been rejected without assigning any reasons, has no merit.

14. As the aforesaid appellate order has not been assailed on merits, or for that matter for any other reasons, the same does not warrant any judicial intervention.

15. The OA is therefore dismissed. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER (J)

S. R. Adige
(S. R. Adige)
VICE CHAIRMAN (A).

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