

-7-

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.2242/1999

New Delhi this the 5th day of March, 2001.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

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

Budh Singh S/O Shri Naneh Ram  
R/O 7/76, Arjun Gali, Vishwas Nagar,  
Shahadara, Delhi-110032.

... Applicant

( By Shri A.K.Behera, Advocate )

-versus-

1. Lt.Govenor  
Union Territory of Delhi  
Raj Bhavan  
Delhi-110054.
2. Chief Secretary  
Government of National Capital Territory  
of Delhi  
5, Sham Nath Marg  
Delhi-110054.
3. The Commissioner of Sales Tax  
Government of National Capital Territory  
of Delhi  
Vikas Sadan, I.P.Extn.  
New Delhi-110002.
4. The Joint Secretary (Vigilance)  
Government of National Capital Territory  
of Delhi, Old Secretariat  
Delhi-110054. ... Respondents

(By Advocate Shri Rajinder Pandita )

O R D E R (ORAL)

Shri M.P.Singh, Member (A) :

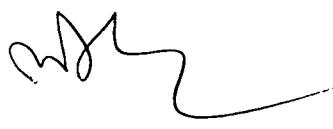
The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 challenging the order dated 6.5.1999 passed by the respondent No.4 whereby a penalty of reduction in pay by three stages in the time scale of pay for a period of three years with cumulative effect has been imposed upon him.



-8-

2. The facts of the case are that the applicant while functioning as Sales Tax Officer in Ward No. 23 during the period from May 1986 to October 1986 committed misconduct by passing the Registration Orders in respect of M/s. Multifrig Marketing Co. (P) Ltd., New Delhi in the back date to cover up the delay and by becoming party to tampering and falsifying the Govt. records such as the documents pertaining to the registration case of the abovesaid dealer and the despatch register of the Ward No. 23 pertaining to 16.6.1986. The registration orders in respect of the abovesaid dealer were shown to have been signed and issued as on 16.6.1986 whereas these orders were actually issued subsequently either on 19th or 20th August, 1986. The applicant is alleged to have connived with Shri R.D. Kataria, Sales Tax Inspector in tampering with the dates in surety verification report. The applicant while passing the said registration order in the back date and by becoming a party to the tampering and falsifying of Govt. records failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Govt. servant and has thereby contravened sub-rule (1) of Rule 3 of CC (Conduct) Rules, 1964.

3. A departmental enquiry was instituted against the applicant. The charges were proved and the disciplinary authority passed orders dated 27.5.1991 for his compulsory retirement. The



applicant along with others moved the Tribunal wherein the punishment order dated 27.5.1991 was quashed on the ground that the appointment of the Inquiring Authority has not been made by the Lt. Governor who was the competent authority in the case. The case was remitted back to the disciplinary authority. The matter was thereafter placed before the Lt. Governor, the competent authority, who passed the following orders:-

"This is the case of disciplinary proceedings against Shri Budh Singh, the then Sales Tax Officer (now Asst. Director in the UTCS), under Rule 14 of the CCS (CCA) Rules 1965. I have gone through the charges, the findings of inquiry, the written statement of defence submitted by the charged officer as well as the connected records of the case.

2. While functioning as Sales Tax Officer in Ward No.23 during 1986, Shri Budh Singh was proceeded against departmentally for committing forgery and falsification of Government records in the matter of registration case of a dealer M/s.Multifridge Marketing Co. (P) Ltd., Kirti Nagar, New Delhi. The dealer had applied for registration on 17.03.1986, but no orders for grant of registration to the dealer had been passed by the charged officer within time prescribed in the rules i.e. upto 16.6.1986 and the case had become time-barred. The registration orders were shown to have passed on 16.06.1986, got entered in the despatch register in the date 16.6.1986, but infact the registration orders purported to have passed on 16.6.1986 were sent on 20.8.1986. The charged officer in connivance with the Head Clerk and the Sales Tax Inspector had committed misconduct of tampering and falsifying the Government records to cover up the delay.

3. In the departmental inquiry, the charges against Shri Budh Singh were established and the disciplinary authority had passed orders dated 27.05.1991 for his compulsory retirement. However, Shri Budh Singh alongwith the Head Clerk and STI had moved the Hon'ble CAT wherein the punishment order dated 27.05.1991 was quashed on the technical grounds that the appointment of Inquiring Authority had not been made by the




Lt. Governor who was the competent authority in the case. Consequently, Shri A.K. Chaturvedi, Addl. Director (Transport) was appointed I.O. by the competent authority. The I.O. submitted his report holding the charges not proved against the charged officer, but the disciplinary authority did not agree with the findings of I.O. A note of dissent with the findings of inquiry and a copy of the inquiry report were supplied to the charged officer for making representation, if any.

4. In his reply of defence, the charged officer has submitted that the final order of registration was passed by him on 13.06.1986 and he had given the file to the Head Clerk who had despatched the registration order on 16.06.1986. Thereafter the file never came to the charged officer and any delay in posting the registration order was on the part of the Head Clerk. As regards the cutting in the order sheet, the charged officer has submitted that he had corrected the bona fide error of date which was amenable to correction and he had duly authenticated it. He has pleaded that there was no malafide intention on his part in doing so.

5. Perusal of the related records of the case, however, reveals that the Sales Tax Inspector had visited the dealer's premises for surety verification purposes on 25.06.1986 and not on 16.06.1986. This is also corroborated by the statements of witnesses during inquiry proceedings. Therefore, there cannot be any surety verification report of the Sales Tax Inspector dated 13.06.1986. The charged officer Shri Budh Singh had recorded the factually incorrect note, only to cover up the delay in granting registration to the dealer. No person other than the charged officer had any interest in changing the date from 25.06.1986 to 13.06.1986 as the case had become time-barred and the charged officer was solely responsible for the delay. The charged officer passed the registration orders under Local and Central Acts in the back date with a view to save himself from the responsibility as the case had become time-barred and he had not approached the competent authority for extension of time. Not only the registration orders were passed in the back date, but a false entry in the despatch register dated 16.6.1986 was also arranged by the charged officer in connivance with the Head Clerk.

6. Considering the gravity of lapse on the part of the charged officer, I am of the view that the penalty of reduction in pay by three stages in his time-scale of pay for a period of three years with cumulative effect and that he will not earn increments of pay




during the penalty period, would meet the ends of justice. I order accordingly."

4. We have heard the learned counsel for the contending parties and perused the material placed on record. During the course of the arguments, the learned counsel for the applicant submitted that the charges against the applicant have not been proved. The disciplinary authority has furnished a note of disagreement based on conjectures and surmises. He took us through the report of the enquiry officer to show that this is a case of no evidence and the charges have not been proved against the applicant. After perusal of the documents placed before us, we find that the enquiry has been held by the disciplinary authority in accordance with the rules. It is a settled position that the courts and the Tribunals cannot reappreciate the evidence and also cannot go into the quantum of punishment. In our opinion, this is not a case of no evidence. The note of disagreement furnished by the disciplinary authority is based on the <sup>record available.</sup> ~~statement of Shri R.D. Kataria, Sales Tax Inspector.~~ Therefore, it cannot be held that this is a case of no evidence. The applicant has been given due opportunity to defend himself in this case and he has been supplied a copy of the enquiry report. There is, therefore, no ground to interfere with the order of the disciplinary authority imposing the penalty of reduction in pay by three stages in the time scale of pay for a period of three years with cumulative effect.

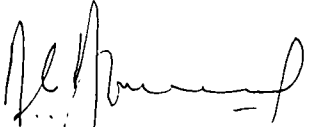


5. For the foregoing reasons, the OA is devoid of merit. The same is accordingly dismissed. No costs.



(M.P. Singh)  
Member (A)

/sns/



(Ashok Agarwal)  
Chairman