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Central Administrative Tribunal, Principal Bench

Original Application No.1743 of 1995

New Delhi, this the 23rd day of July, 2001

Hon'ble Mr. S. R. Adige, Vice Chairman(A)  
Hon'ble Dr. A. Vedavalli, Member (J)

B.S.Dabas, Sub Inspector/UDC  
resident of Ward No.2  
House No.281 C-3  
Mehrauli, New Delhi-30

- Applicant

(By Advocate - Shri Gyan Prakash)

Versus

1. Govt. of National Capital Territory of Delhi  
Through: The Chief Secretary/  
Principal Finance Secretary,  
Delhi Administration/NCTD,  
5, Shamnath Marg, Civil Lines,  
Delhi-54
2. The Commissioner of Excise  
Office of the Commissioner of Excise  
L-Block, Vikas Bhawan  
I.T.O., New Delhi
3. The Registrar,  
Co-Operative Societies  
Office of the Registrar, Co-Operative Societies  
Courts Building, Sansad Marg  
New Delhi
4. The Enquiry Officer  
Central Vigilance Commission  
Block No.10, Jam Nagar House  
Akbar Road, New Delhi

- Respondents

(By Advocate - Mrs. Jasmine Ahmed)

O R D E R (ORAL)

By Mr. S. R. Adige, Vice Chairman(A)

Applicant impugns the disciplinary authority's order dated 5.5.83 (Annexure A-17), dismissing him from service and the appellate authority's order dated 1.9.94 (Annexure A-19), reducing the punishment of dismissal to that of withholding of one increment with cumulative effect for a period of three years.

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2. Applicant was proceeded against departmentally vide charge-sheet dated 29.4.88 on two Articles of Charge, both relating to issue of ~~excess~~ ~~excess~~ of tins of Rapeseed Oil and RBD Palm Oil in excess of the quantity allotted to him by the Circle FSO for the months of January, 1983 and February, 1983.

3. The enquiry officer in his enquiry report dated 17.1.1992 (Annexure A-15) held Article-I of the charge as proved and Article-II of the charge as partly proved. Copy of the enquiry Officer's report was furnished to the applicant for representation, and applicant submitted the same on 24.3.93. Thereupon, after considering the materials on record including applicant's representation, the disciplinary authority by his impugned order dated 5.5.83 (Annexure A-17) imposed upon ~~the~~ <sup>the</sup> applicant ~~penalty~~ of <sup>the</sup> ~~penalty~~ of dismissal from service which, in appeal, was reduced to that of withholding of one increment with cumulative effect for a period of three years.

4. We have heard applicant's counsel Shri Gyan Prakash and respondents' counsel Ms. Jasmine Ahmed.

5. During the course of hearing, we were informed that according to the prescribed procedure for issue of the tins of oil, the authority letters (Ann A-3) are prepared by the Inspector/Sub-Inspector of Civil Supplies (applicant at the relevant time was Sub-Inspector {Civil Supplies}) and the same are thereupon checked by somebody else and thereafter

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signed by the Food Supply Officer, upon which these authority letters are issued in three copies, one of which goes to the Central Godown, 2nd to the Shopkeeper and the 3rd is retained as office record.

6. Applicant's involvement was, therefore, "linked" to the preparation of the aforesaid ~~recommendations~~ authority letter, but it is not denied that no ~~recommendations~~ authority letter for the period January, 1983 and February, 1983 were produced as evidence during the course of hearing, despite the applicant's specifically asking for the same. In this connection, our attention is invited to letter dated 22.3.1991 (Annexure A-4) to which in reply dated 23.9.1991 (Annexure A-5), against the row "original authority of DSCSC E.Oil submitted by FPSs to DSCSC", it was reported to be not available owing to water logging. Indeed, the alleged misconduct has been fastened upon the applicant on the basis of certain unsigned entries "kuchha" in a register, extracts of which are available at Annexure A-6.

Indeed, 7. ~~Respondent~~, if the applicant is alleged to have prepared and signed the authority slips for issue of excess tins of Rapeseed Oil and RBD Palm Oil for the months of January and February, 1983, respondents should have produced the authority slips on the basis of which applicant is alleged to have recommended issue of excess tins.

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8. Denial of the aforesaid documents to applicant, during the course of hearing, manifestly is violative of the basic principles of natural justice and in the circumstance, it must be held that applicant was denied adequate opportunity to defend himself properly, more particularly when these documents were specifically asked for by him. Other points have also been raised but in our view, the aforesaid discussion is itself sufficient to call for judicial interference in this OA.

9. Accordingly the OA succeeds and is allowed. The impugned orders are quashed and set aside. Respondents should release applicant's increments, as if the impugned orders have not been passed, with such consequential benefits as will flow in accordance with rules, instructions and judicial pronouncements on the subject. These directions should be implemented within a period of 3 months from the date of receipt of a copy of this order. No costs.

A.Vedavalli  
(Dr.A.Vedavalli)  
Member (J)

S.R.Adige  
(S.R.Adige)  
Vice Chairman (A)

/dinesh/