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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. No. 2592/97

New Delhi this the 22nd Day of August, 2000

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

J.T. Teckchandani,
S/o Late Shri Tulsi Das,
R/o B-5, Manu Apartments,
Mayur Vihar Phase I,
Delhi-110 091.

- Applicant

(By Advocate: Shri Harvir Singh)

Versus

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

2. The Jt. Secretary & Chief
Vigilance Officer,
Ministry of Commerce,
Government of India,
Udyog Bhawan,
New Delhi.

- Respondents

(By Advocate: Shri R.N. Singh proxy counsel of
Shri R.V.Sinha)

O R D E R (Oral)

Hon'ble Shri S.R. Adige, Vice Chairman (A)

Applicant impugns respondents' orders dated 7.11.1996 and 11.3.1997 and seeks a direction to release his pension immediately without prejudice to the appeal pending in the Session's Court.

2. We have heard Shri Harvir Singh, learned counsel for the applicant and Shri R.N. Singh proxy counsel of Shri R.V.Sinha, learned counsel for respondents.

3. The applicant was convicted on a criminal charge under Section 120-B read with Section 420/511, 468/471 IPC by order dated 9.1.1995 by the Metropolitan Magistrate, New Delhi because of certain offences committed between 1965-68. As the applicant was retired

on superannuation on 31.1.1995, he was given the benefit of probation and was released on furnishing bonds of peace and good conduct in the sum of Rs. 5,000/- with one surety of like amount for a period of six months. He was also directed to deposit a sum of Rs. 2000/- as cost of litigation. In default of deposit of cost of litigation and/or furnishing the bond, it was directed that he will undergo RI for six months and will also pay fine of Rs. 3,000/- or undergo simple imprisonment for six months in default.

3. Pursuant to the above conviction, the respondents after considering the relevant facts of the case, proposed to impose punishment of 5% cut in applicant's monthly pension under Rule 19 of the Central Civil Service (Classification, Control and Appeal) Rules, 1965 read with Rule 9 of the Central Civil Services (Pension) Rules, 1972, vide memo dated 15.11.1995 (Annexure-A-4). The applicant was given an opportunity to represent against the proposed penalty. The applicant submitted his representation on 18.12.1995. Thereafter, the respondents decided to enhance the penalty of the applicant and accordingly issued a show cause notice on 7.11.1996 (Annexure-A-1). The applicant submitted his representation on 26.11.1996. Thereafter, the respondents by the impugned order dated 11.3.1997 (Annexure-A-2) imposed a penalty of withholding of entire monthly pension admissible to the applicant permanently. However, it was directed that the gratuity may be released as admissible to the applicant. It is against that order, the applicant has filed this OA.

4. During the hearing, the respondents' counsel

invited our attention to the Tribunal's order dated 25.7.2000 in OA-2593/97 in the matter of Kesar Singh Aswal Vs. Union of India and another. We note that Shri Aswal was also one of co-accused in the aforesaid criminal case and was convicted by the same order dated 9.1.1995. The OA-2593/97 was dismissed on merits by the Tribunal's order dated 25.7.2000 and no good reasons could be advanced before this Bench to take any different view, more particularly, as nothing has been shown to establish that the aforesaid order passed by the Tribunal on 25.7.2000, has been stayed or set aside. In this connection, Shri Harvir Singh, counsel for the applicant has invited our attention to Para 6 of aforesaid Order dated 25.7.2000 wherein it is recorded that no action could be taken against Shri Ram Lal, who was one of the co-accused because the details and particulars as to his place of employment etc. were not available. The Bench in its order dated 25.7.2000 has held that the ground that Shri Ram Lal was not punished could not be advanced for not taking action against the applicant. Shri Harvir Singh urged that aforesaid observation of the Tribunal, that Shri Ram Lal could not be proceeded against because details of his place of employment etc. were not available, was incorrect inasmuch as the place where Shri Ram Lal was working was very much available, but despite that respondents have not taken any action against Shri Ram Lal. Shri Harvir Singh, therefore, contended that this was a case of discrimination because the respondents had followed a pick and choose policy of punishing some and not others. In this connection the counsel for respondents has invited our attention to Para 5.1 to 5.9 of the respondents' reply wherein they have stated that

they have no knowledge regarding action taken against Shri Ram Lal by his employer, but in any case the fact that a co-accused having not been awarded any punishment by the employer, does not entitle the other co-accused, who were held guilty, to challenge the penalty imposed upon them by their employers. We have noticed that the Tribunal in its order dated 25.7.2000 in OA 2593/1997 have taken the view that not punishing Shri Ram Lal cannot be advanced as a ground for not taking action against the applicant Shri Aswal who has been punished because of the gravity of the charge, and we respectfully concur with the aforesaid observation.

5. In the result, we find ourselves unable to grant the relief prayed for by the applicant and for the reasons contained in the aforesaid order dated 25.7.2000, we dismiss the OA without any cost. In this connection, as in Kesar Singh Aswal (Supra), if and when the appeal pending in Sessions Court is decided and it is in favour of the applicant, it will be open to him to file a fresh OA as it will give him a fresh cause of action.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

Adige

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

Mittal