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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2593 of 1997

New Delhi, this 25th day of July, 2000

Hon'ble Justice Shri V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry Member(A)

Kesar Singh Aswal
S/o Late Shri Kundan Singh
R/o S-1/710 R.K. Puram
New Delhi ... 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 Joint Secretary & Chief
Vigilance Officer
Ministry of Commerce
Government of India
Udyog Bhawan
New Delhi. ... Respondents

(By Advocate: Shri R.V. Sinha, through proxy Shri R.N. Singh)

ORDER(Oral)

By Smt. Shanta Shastry

The applicant who had joined as LDC initially and was posted in the Office of the Chief Controller of Imports and Exports, Ministry of Commerce, New Delhi, was convicted on a criminal charge under Section 120-B read with Sections 420 IPC, 420/511 and 468/471 IPC by judgement dated 9.1.1995 of the Court of the Metropolitan Magistrate, New Delhi. In view of the conviction, the respondents after considering the relevant facts of the case had initially proposed to impose a penalty of 5% cut in the applicant's monthly pension under Rule 19 of the CCS(CCA) Rules, 1965 read with Rule 9 of the

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CCS(Pension)Rules,1972 as the applicant had retired in 1991. He was given an opportunity to represent on the proposed penalty. However later on considering the gravity of the offence the respondents decided to enhance the penalty to withholding of the entire monthly pension admissible to the applicant and accordingly issued a show cause notice to the applicant on 7.11.1996. Thereafter in consultation with the UPSC the respondents finally imposed the penalty of withholding of the entire ~~family~~^h pension admissible to the applicant permanently.

2. Aggrieved by the impugned order dated 11.3.1997 withholding his entire pension, the applicant has approached this Tribunal.

3. We have heard both the learned counsel for the applicant and the respondents.

4. It is a fact that the applicant was convicted on a criminal charge. The respondents therefore proceeded against him under the CCS(CCA)Rules 1965. As per Rule 19 of the CCS(CCA)Rules,1965 notwithstanding anything contained in Rule 14 to Rule 18 where any penalty is imposed on a government servant on the ground of conduct which has led to his conviction on a criminal charge the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit provided that the government servant may be given an opportunity of making representation on the

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penalty proposed to be imposed before any order is made. The respondents have followed this procedure and have given adequate opportunity to the applicant to represent against the enhanced penalty.

5. It is the contention of the applicant that he was let off on probation by the court and therefore the penalty imposed is too harsh. Learned counsel for the applicant has further argued that no action has been taken against some of the co-accused particularly Shri Ram Lal. The others were let off. Taking action against only the applicant is discriminatory.

6. The learned counsel for the respondents opposing the contention submits that the respondents have consulted and taken the advice of the UPSC in the matter and have gone strictly in accordance with the rules. The fact is that the applicant was convicted by the court on a criminal charge. This cannot be overlooked. It is a grave offence and therefore the applicant deserves to be punished with the withholding of the entire pension. He further states that no action could be taken against Shri Ram Lal the co-accused because because the details and particulars of Shri Ram Lal as to his place of employment etc. were not available. However, in respect of the other co-accused who was working in the same department as the applicant, action has been taken. Thus there is no question of sparing the co-accused. In any case not

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punishing Shri Ram Lal cannot be advanced as a ground for not taking action against the applicant. He has been punished because of the gravity of the charge.

7. We have given due consideration to the pleadings and the averments made. The respondents after giving careful consideration to the facts and gravity of the offence deemed it fit to withhold the entire pension of the applicant. Their action cannot be faulted. We do not find this a fit. They have done so after giving due opportunity to the applicant. We therefore do not consider this to be a fit case to interfere. The OA is accordingly dismissed without any order as to costs.

8. The learned counsel informs us that the applicant has filed a revision petition in the Sessions Court against the judgement of the Conviction by the Metropolitan Magistrate, New Delhi and the same is pending. In view of this, as and when the appeal is decided and if it is decided in favour of the applicant, then it is open to the applicant to file a fresh OA in view of the fresh cause of action that would arise.

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(Smt. Shanta Shastri)
Member(A)

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice Chairman((J)