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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

DA No. 979/1997

New Delhi: this the 3rd day of November, 2000.

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

HON'BLE DR. ASVEDAVALLI MEMBER (J)

Shri Raj Singh,
S/o Shri Sardar Singh,
working as Head Warden
in the Central Jail,

Tihar,

New Delhi

.....Applicant

(By Advocate: Shri S.C. Luthra)

Versus

1. Govt. of NCT of Delhi,

through

Home Secretary,

5, Shambhav Marg,
Delhi-54

2. Inspector General of Prisons,
Central Jail,

Tihar,

New Delhi

.....Respondents

(None appeared)

ORDER

Mr. S.R. Adige, VC (A):

Applicant impugns the disciplinary authority's order dated 23.4.96 (Annexure-A1); the appellate order dated 29.11.96 (Annexure-A2); and the suspension order dated 10.4.87 (Annexure-A3).

2. Applicant was charged under Rule 14 CCS (CCA) Rules on 29.8.90 on the allegation that he in league with weaving Instructor Kamlesh Kumar manouvre to take 64 logs of Shisham in Tempo No DIL 8186 on the basis of an unauthorised gate pass from Jail No.2 on 28.3.87.

3. The Inquiry Officer submitted his report

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on 25.1.93 holding the charge against applicant as proved. A copy of the Inquiry Officer's report was furnished to applicant. The Disciplinary Authority's impugned order dated 23.4.96 records that applicant demanded copies of certain documents/statements, whereas the scrutiny of the file of the Inquiry Officer revealed that copies of all relevant documents had been supplied to him.

4. Agreeing with the Inquiry Officer's findings the Disciplinary Authority by impugned order dated 23.4.96 imposed the penalty of withholding of one increment for one year, which was upheld in appeal vide order dated 29.1.96 against which the present OA has been filed.

5. We have heard Shri Luthra for applicant. None appeared for respondents.

6. Shri Luthra has invited our attention to CAT PB order dated 1.8.2000 in OA No.831/97 filed by Shri Kamlesh Kumar who had challenged the penalty of stoppage of one increment for one year awarded to him in a departmental proceeding for abetting the misconduct of Head Warden Raj Singh (applicant in the present OA) in taking out 64 logs of Shisham wood from Jail No.2 in Tempo No. DIL 8186 surreptitiously. The CAT PB in order dated 1.8.2000 while allowing the OA and setting aside the penalty of withholding one increment for one year in the case of applicant Kamlesh Kumar, had noticed that in OA No.245/91 Om Prakash Vs. Delhi Administration decided on 13.4.92, in respect of whom the charges issued to that applicant were connected with the charges issued to Kamlesh Kumar, the CAT PB had come to the conclusion that there was no evidence to sustain the charges, and that order had become final. Since Om Prakash who was charged with

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unauthorisedly issuing gate pass for 64 logs of Shisham wood in favour of Raj Singh had been let off, the Bench held that OA No. 831/97 was also entitled to succeed, not least because the appellate authority's order was a cryptic order which gave no reasons.

7. Nothing has been shown to us to establish that the aforesaid order dated 1.8.2000 in Kamlesh Kumar's case (supra) has not become final.

8. Under the circumstances, following the ruling in Kamlesh Kumar's case (supra), this OA succeeds and is allowed. The impugned order of suspension and those of disciplinary authority and appellate authority are quashed and set aside. Applicant shall be entitled to full pay and allowances during the period of suspension which shall be treated as period spent on duty. Applicant's increment which was withheld shall be restored to him and it shall be deemed that the aforesaid penalty ^{never} order had never been passed. Applicant shall also be entitled to such other consequential benefits as are admissible to him in accordance with rules, instructions and judicial pronouncements on the subject. These directions should be implemented within 3 months from the date of receipt of a copy of this order. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)

MEMBER (J)

Anil
(S. R. ADIGE)
VICE CHAIRMAN (A)

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