

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.1434/94

Dated this the 3rd day of August, 1995.

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Hon'ble Shri N.V. Krishnan, Vice Chairman(A)
Hon'ble Dr. A. Vedavalli, Member(J)

Shri B.S. Jarial,
S/o Shri G.S. Jarial,
R/o B-9, Officers Flats,
Central Jail Tihar,
New Delhi.Applicant

By Advocate: Shri S.C. Jindal.

versus

1. Government of National Capital Territory of Delhi,
5, Sham Nath Marg,
Delhi-6 through its Secretary.
2. The Inspector General of Prisons,
Central Jail Tihar,
New Delhi.Respondents

By Advocate: Shri Arun Bhardwaj.

O R D E R (Oral)
(By Shri N.V. Krishnan)

The applicant is working as Deputy Superintendent(Jail) Grade II in the Central Jail, Tihar. He has filed this application aggrieved by the Annexure P1 memorandum dated 22.6.94 issued by the Chief Secretary to the Government of National Capital Territory of Delhi enclosing therewith the article of charges on the basis of which, it was decided to institute departmental proceedings against him. The article of charges reads as follows:-

"That Shri B.S. Jarial while functioning as Assistant Superintendent in Central Jail, Tihar, New Delhi on 14.5.83 was found negligent in the discharge of his duties which resulted in the escape of four female prisoners.

Shri B.S. Jarial has thus failed to maintain devotion to duty and acted in a manner unbecoming of a Government

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Servant thereby violating the provision of Rule 3 of the CCS(Conduct) Rules, 1964."

2. The statement of imputation to the charge makes it clear that the incident in respect of which the charge was framed relates to the escape of four female prisoners in 1983. Hence the OA was filed for a direction to quash the charge memo (Annexure P1).

3. When the matter came up, it was pointed out that the criminal case against the applicant was withdrawn in 1986 and that after a long time thereafter the DE has been started. We noted that there was a delay in commencement of the disciplinary proceedings. Hence notice was issued to the respondents.

4. The respondents have filed a reply in which they have explained in detail the reasons why the enquiry had to be commenced at such a belated stage. The respondents were also directed to produce the records as some aspects of the reply required further elucidation.

5. The matter was heard today. The learned counsel for the respondents has produced the records.

6. It is seen from the reply that as a result of the escape of the prisoners, it was decided to prosecute the concerned

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delinquent officials including the applicant.

It appears that the applicant and three others were arrested and challaned vide FIR No.113/83 PS Janakpuri under Section 223 IPC. However, the then I.G. Prisons, a Member of the Screening Committee, which is entrusted with the task of recommending which cases should be withdrawn, recommended in January 1984 that the prosecution should be withdrawn as it would have a demoralising effect on the staff of the Jail and that ~~as~~ the departmental proceedings were also in progress and suitable action will be taken therein. It is on this submission that the prosecution was withdrawn in September 1986 with the sanction of the Court.

7. In June 1987 the jail authorities reported that no proceedings were pending against the applicant. This was required for a DPC meeting. It is thereafter, that the matter was looked into and a draft was prepared on 17.5.90 and after collecting documents in respect of all concerned persons and getting the final approval of the Director (Litigation), the enquiry proceedings against four persons were started by the issue of charge sheet dated 22.6.94.

8. Today, the learned counsel for the respondents was directed to read over to us from the original record about the relevant incident mentioned in the above reply. He read over the note recorded by the

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Superintendent of Jails, on which, the then I.G. Prisons made the observations on 13.1.84 that as departmental proceedings were already in progress, the prosecution should be withdrawn. The criminal case was withdrawn on 11.9.86. On 7.11.88, the then I.G. Prisons wanted to know what was the fate of the disciplinary enquiry proceedings instituted in connection with the escape of the prisoners in 1983. To this, a reply was given in March and April 1989. It was stated that the Home (General) Department had earlier enquired from the I.G.(Prisons) about this very matter on a representation made by another jail official, Mahabbeer Singh, Assistant Superintendent. It appears that the Home (General) Department also wanted to know what happened to the disciplinary enquiry proceedings because the Screening Committee had been told that disciplinary enquiry would be started if the prosecution is withdrawn. If no disciplinary enquiry had been started, the Home Department wanted to know the reason therefor. It is at this point of time that it was discovered that no disciplinary enquiry had been started. Accordingly, it was decided to institute disciplinary proceedings against the applicant and the other persons.

9. It is thus clear that there was a delay of around seven years in making this discovery. That cannot enure to the benefit of the applicant. For, he has already got the

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benefit of withdrawal of the prosecution of the criminal case against him, which, now appears, was made on the basis of a false representation. As the matter was quite old and as three other persons have also been involved, it was only natural that some additional time was taken and the disciplinary enquiry was only announced in 1994.

10. We are of the view that no injustice has been caused to the applicant. On the contrary, probably, he and his colleagues have escaped prosecution because the prosecution launched was withdrawn on the misrepresentation of facts by the then I.G. Prisons. They are now sought to be dealt with, though belatedly. The delay has been accounted for.

11. In the circumstances, we do not find there is any justification for us to interfere in the disciplinary proceedings. We, therefore, dismiss the application with the observation that a considerable time has already elapsed, the disciplinary enquiry should be completed as expeditiously as possible.

10. The OA is disposed of accordingly. No costs.

A.Vedavalli

(Dr. A. Vedavalli)
Member(J)

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N.V.Krishnan
3.8.95

(N.V.Krishnan)
Vice Chairman(A)