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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O. A. NO. 2013/94

New Delhi this the 20th day of October, 1994

THE HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN  
THE HON'BLE SHRI P. T. THIRUVENGADAM, MEMBER (A)

Shri Subhash Sharma,  
Dy. Supdt. Grade-II,  
Central Jail, Tihar,  
New Delhi.

... Applicant

By Advocate Shri S. C. Jindal

Versus

1. Govt. of National Capital Territory of Delhi,  
5, Shyam Nath Marg,  
Delhi - 110006 through  
Chief Secretary.
2. The Inspector General of  
Prisons, Central Jail,  
Tihar, New Delhi.

... Respondents

ORDER (ORAL)

Shri Justice S. C. Mathur, Chairman -

The applicant has directed this application against the chargesheet issued to him on 9.9.1994.

2. The validity of the chargesheet is challenged on three grounds, i.e., (i) it is stale, as it relates to an incident which took place five years ago; (ii) it is the result of mala fides on the part of the then Superintendent of Jail; and (iii) the applicant is not at fault.

3. From a perusal of the chargesheet, it appears that the main charge against the applicant relates to escape of a prisoner, Ashok. At that time the applicant was functioning as Chief Executive Officer of Jail No.3, Central Jail, Tihar, New Delhi.

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Of course, a period of about five years has expired since the escape took place, But that, in our opinion, is not sufficient to deny the administration an opportunity to hold an inquiry against the applicant. Delay, if any, can be explained by the administration during the inquiry proceedings.

4. So far as the allegation of mala fide is concerned, it is entirely misconceived. The chargesheet is signed by the Chief Secretary, Govt. of National Capital Territory of Delhi and the same has been issued at the level of the Government. The allegation of mala fides has not been made against the Chief Secretary. The allegation is made against the then Superintendent of Jail who is no longer posted there. Obviously, the Superintendent was not in a position to influence the will of the Chief Secretary or the Government. The allegation of mala fides, therefore, cannot be upheld. In support of the plea that the applicant was not at fault, the learned counsel has relied upon the report of the Crime Branch dated 24.5.1990. This, at the most, is an evidence in favour of the applicant. Against this evidence, there may be other evidence which may be brought on record by the administration in the inquiry proceedings. It is not the function of the Tribunal to anticipate the evidence that may be brought on record by the administration.


5. In the same strain, the learned counsel has invited our attention to several certificates of commendation issued to the applicant and the rewards


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sanctioned to him. This again is, at the most, evidence of applicant's general good conduct. The inquiry is being held in respect of certain specified matters. General good behaviour, if it has any relevance, may be shown by the applicant to the inquiry officer. On the basis of general good behaviour, we cannot assume that the charges are false.

6. The learned counsel for the applicant submitted that the chargesheet has been issued at this late stage only to deny promotion to the applicant which is due to him. This is an aspect of allegation of mala fides, which we have dealt with hereinbefore.

7. In view of the above, the application lacks merit and is hereby dismissed.

  
( P. T. Thiruvengadam )  
Member (A)

  
( S. G. Mathur )  
Chairman

/as/