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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 127/2004 with OA 128/2004

New Delhi, this the 9th day of September, 2004.

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. Sarweshwar Jha, Member (A)

Surender Kumar Sand
Inspector in Delhi Police
R/o 225, P.S. Ashok Vihar
New Delhi - 52.

...Applicant

(By Advocate Sh. Anil Singhal in both the cases)

V E R S U S

1. Lt. Governor of Delhi
Raj Niwas, Delhi.
2. Commissioner of Police
Police Headquarters
IP Estate, New Delhi.
3. Joint Commissioner of Police
Armed Police, PHQ
IP Estate, New Delhi.
4. Naresh Kumar
Then DCP (III-Bn. DAP)
(To be served through R-2)

...Respondents

(By Advocate Ms. Sumedha Sharma, proxy for
Ms. Rashmi Chopra in OA 127/2004)

(By Advocate Ms. Sumedha Sharma
in OA 128/2004)

ORDER (ORAL)

Mr. Justice V.S. Aggarwal,

By this common order, we propose to dispose of the two Original Applications referred to above.

2. At the outset, we make it clear that though certain questions had been raised pertaining to validity of Rule 6 (2) of Delhi Police (Punishment & Appeal) Rules, it becomes unnecessary for this Tribunal to



express on that controversy in the present petitions. This is for the reason that the impugned orders are liable to be quashed otherwise for the reasons we intend to record hereinafter.

3. For sake of convenience, we are taking the facts from OA 127/2004 titled Surender Kumar Sand v. Lt. Governor of Delhi.

4. A notice to show cause had been served on the applicant dated 14-7-98. It was on the ground that the applicant submitted information regarding his medical rest for two weeks on 17-5-98 without obtaining prior permission of the competent authority in accordance with the Leave Rules. Orders regarding re-medical had to be passed by the disciplinary authority. Sh. Ram Singh, Assistant Commissioner of Police was deputed to accompany the Inspector for second medical examination. On 27-5-98, the Inspector arrived at 7:30 am at Vikas Puri Lines and instead of reporting Sh. Ram Singh for going to Dr. R.M.L. Hospital regarding second medical examination, he made an entry in the Battalion Roznamcha using highly indisciplined and intemperate language and left for Deen Dayal Upadhyay Hospital at his own accord.

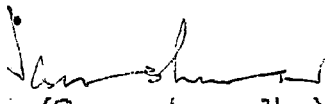
5. The precise grievance which is common in both the petitions is that the show cause notice is dated 11-6-98. It was served on the applicant on 14-7-98. He was to submit his reply within 15 days of the receipt of the same. His request for further time had been rejected primarily on the ground that it was not routed through the Assistant Commissioner of Police (Lockups) in OA 128/2004 and in the other matter on the ground that it is merely an excuse to delay the submission of the reply and that the same has been filed at the nick of the time.


6. Once the service of the notice had been effected on 14-7-98 and he was granted 15 days time to submit his reply, necessarily the reply could be filed up to 29-7-1998. The disciplinary authority did not wait for even 15 days to expire and the order was passed on 27-7-98.

7. Not only that, once the time was prayed within 15 days, necessarily the request should be considered on its merits and it could not have been rejected merely on the ground that it has been filed at the nick of the time. Consequently without dwelling on the merits of the matter, we

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quash the impugned orders and direct that reply, if any, may be filed within two weeks from today. Thereafter, the disciplinary authority may pass an appropriate order in accordance with law.


(Sarweshwar Jha)
Member (A)


(V.S. Aggarwal)
Chairman

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