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Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.1317/2004

New Delhi, this the 25th day of February, 2005

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.K. Naik, Member(A)

Hargyan Singh,
Retd. Head Warder No.107,
Central Jail, Tihar,
New Delhi-64

....Applicant

(By Advocate: Shri S.C. Luthra)

Versus

1. Govt. of NCT of Delhi through
The Principal Secretary (Home)
Delhi Sachivalaya, I.P. Estate,
New Delhi-2
2. Director General (Prisons),
Prisons Head Qrs.
Near Lajwanti Chowk,
New Delhi-64

....Respondents

(By Advocate: Shri Vijay Pandita)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant was a Head Warder in Central Jail. He
superannuated on 30.11.2002.

2. On 30.6.98, an incident had taken place in which two under trial
prisoners were found murdered. On account of alleged negligence,

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departmental proceedings were initiated against the applicant and others. Enquiry officer was appointed who exonerated the applicant.

3.The disciplinary authority on 25.10.2002 imposed a penalty of censure on the applicant. His appeal was dismissed on 16.1.2004.

4.By virtue of the present application, the applicant seeks quashing of the orders passed by the disciplinary as well as the appellate authority and to direct grant of 2nd upgradation under the Assured Career Progression Scheme after opening the sealed cover and even promote him, if found fit.

5.The petition is being contested.


6.During the course of submissions, learned counsel for the applicant urged that the disciplinary authority despite the applicant having been exonerated by the enquiry officer, did not serve any note of disagreement and had proceeded to impose the penalty of censure.

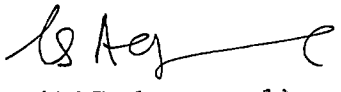
7.We do not dispute the proposition that the disciplinary authority can differ from the enquiry officer but in accordance with law, a tentative note of disagreement must be served and explanation of the concerned officer, must be called. Unfortunately, it was not so done in the present case. Therefore, the orders so passed cannot be sustained.

8.For these reasons, we allow the present application and quash the impugned orders. But we leave it to the respondents to proceed in

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accordance with law since the applicant has superannuated.


(S.K. Naik)
Member(A)


(V.S. Aggarwal)
Chairman

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