

(2) (2)

Central Administrative Tribunal, Principal Bench

Original Application No. 1579 of 2004
M.A. No. 1321/2004

New Delhi, this the 5th day of July, 2004

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

Om Prakash
S/o Late Shri Anant Ram
R/o C-136-A, West Vinod Nagar,
Delhi-92.Applicant.

(By Advocate: Shri Satish Kumar)

Versus

1. Govt. of NCT of Delhi,
Through, Chief Secretary,
P.W.D., Vikas Bhawan,
New Delhi-110001.
2. Chief Engineer P.W.D.,
Anchal-5, P.H.Q. Building,
I.P. Estate, New Delhi.
3. The Superintending Engineer,
P.W.D. Circle NO.3, NCT Sukhdev Vihar,
Under Modi flyover Bridge, New Delhi.Respondents

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

By virtue of the present application, the applicant seeks to assail the order dismissing him from service. Perusal of the said order reveals that the applicant has been found guilty of the offence punishable under Section 304-B read with Section 498-A by the Court of learned Additional Sessions Judge, Delhi. Therefore, in exercise of the powers conferred under Rule 19(1) of the Central Civil Service (Classification, Control and Appeal) Rules, 1965, he has been dismissed from service.

2. Learned counsel for the applicant argues:

- a) appeal against the order convicting the

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applicant is pending in the Delhi High Court and sentence has been suspended; and

b) the procedure prescribed in law whereby reasonable opportunity has to be granted to the applicant, has not been followed.

3. On both the counts, the contentions must fail. Reasons are obvious and not far to fetch.

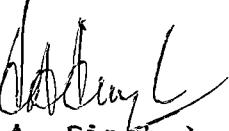
4. Pertaining to the first argument, it is clear that copy of the order of the Delhi High Court suspending the sentence is not on record. In any case, once the sentence is suspended, the effect is that person is not to undergo sentence till the decision of the appeal. Necessarily, the applicant remains a convict. Consequently, on this short ground, the plea of the applicant must fail.

5. As regards the second argument, perusal of the Article 311 of the Constitution and Rule 19(1) of the CCS (CCA) Rules clearly shows that when a person is convicted for certain offences, an exception is drawn to the reasonable opportunity to contest, to be granted. Same is the position herein. Therefore, there is no ground as for the present to quash the impugned order.

6. However, we make it clear that in case the applicant succeeds in appeal, he can take recourse in the

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law. Subject to aforesaid, the O.A. is dismissed in
limine.


(S.A. Singh)

Member (A)


(V.S. Aggarwal)
Chairman

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