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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 715/2004

New Delhi this the 30th day of September, 2004

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

Shri Surinder Verma,
S/o Shri H.P.Saxena,
Aged 68 years, R/o H.No.58, Pocket No.G-21.
Sector -7, Rohini, Delhi.

..Applicant

(By Advocate: Shri S. P. Chadha)

VERSUS

1. Govt. of NCT Delhi through,
Chief Secretary,
Delhi Sachivalya, Vikas Marg,
New Delhi.
2. The Director,
Social Welfare, Govt. of NCT of Delhi,
K.G.Marg, New Delhi.
3. The Commissioner, Sale Tax
Govt. of NCT of Delhi
Vikas Bhawan,
I.P.Estate, New Delhi.
4. The Secretary,
Ministry of Home Affairs
(Through Director CPS),
North Block, New Delhi.

(By Advocate Shri Vijay Pandita for Respondents no. 1 to 3
Shri S.M.Arif, counsel for respondent no.4)

O R D E R (ORAL)

Mr. Justice V.S.Agarwal, Chairman

The applicant was a Sales Tax Officer. He has since superannuated on 31.7.1992. The disciplinary proceedings had been initiated against him and vide impugned order dated 28.07.2003 (Annexure A-1), a penalty of 5% cut in the monthly pension for a period of five years had been imposed on the applicant.

2. By virtue of the present application, he seeks to assail the order dated 28.7.2003.
3. The applicant had been served with the following charges:

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"That the said Shri Surender Verma while functioning as Sales Tax Officer (Ward-41) in the Sales Tax Department from 18.2.83 to May, 1987 committed misconduct in as much as he issued 15 ST-1 forms on 23.4.83, 10 on 25.6.83 and 15 on 30.7.83 to M/s New Sales Corporation of India, Shop No. 4849, Salimpur, Shahdara Delhi despite an application dated 31.3.83 received in Ward on 16.4.83 wherein the proprietor of the firm had stated that he may not be able to conduct business activities for he was going to his native place and the firm would remain closed from 2nd April to 3rd May, 1983 and ignoring the report of Record Keeper "closed firm". On subsequent enquiries conducted by the Enforcement Branch it was reported that the dealer was not found functioning on the given address. Shri Verma had thus issued statutory forms to a non-functioning dealer and showed negligence on his part. These forms might have been mis-utilized by the dealer later on and government was put in revenue loss.

Thus, Shri Surender Verma showed negligence and dereliction to duty in the matter of issuance of forms to a non-functioning dealer and failed to maintained absolute integrity, devotion to duty and acted in a manner which is unbecoming of a government servant and thereby violated sub-clauses (i), (ii) and (iii) of Sub-Rule 1 of Rule III of CCS Conduct Rules, 1964".

4. We are not dwelling into any other controversy for the present, the reason being that the learned counsel for the applicant argued that the disciplinary authority relied upon the Report of the C.F.S.L. The said Report was neither a part of listed documents, as per charge sheet, nor the said document was ever supplied to the applicant. Learned counsel further argued that the applicant has not been granted any reasonable opportunity to contest the charges and the said Report of C.F.S.L. has been used against him at his back.

5. The impugned order clearly indicates that reference to the Report of C.F.S.L. has been made, by recording:

"It is also found that the plea of the charged officer that the remarks of "closed firm" on the application dated 25.6.83 was recorded in different ink is not factually correct as the result of CFSL examination revealed that the writing "closed firm" were executed with the similar shade of ball point".

6. The law is well settled and requires that a person must be given a reasonable opportunity to contest the charges levelled against him. Once a document is to be used against the alleged delinquent, necessarily a copy of the same must be made

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available to him so that he could rebut the same in accordance with law. It appears that the Report of C.F.S.L. was obtained and the same was not relied upon document but was used on coming to a certain conclusion against the applicant. Admittedly, the aforesaid document had never been supplied to the applicant. The result would be that the applicant has not been granted any reasonable opportunity to contest and rebut the charges levelled against him, in accordance with law.

7. Resultantly, we quash the impugned order and direct that if the respondents intend to use the C.F.S.L. Report, a copy of the same may be given to the applicant and from that stage further proceedings may be taken. The applicant is entitled to consequential benefits.

8. With the above directions, the OA is disposed of.


(S.A. Singh)

Member (A)


V.S. Aggarwal)

Chairman

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