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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.576/2003

Monday, this 3rd day of November, 2003

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

R.R.Sharma,
S/o Late Shri R.K.Sharma,
Aged 60 years,
Retired Grade I Stenographerr
from the office of CMO (W.Z),
Directorate of Health Services,
Paschim Vihar, New Delhi
R/o H.No.740, Palam Village,
New Delhi 110045.

...Applicant

(By Advocate: Shri Arun Bhardwaj)

Versus

1. Government of NCT of Delhi
through the Principal Secretary,
Delhi Sectt. I.P.Estate,
New Delhi.
2. The L.T.Governor,
Raj Niwas, Delhi.
3. Chief Secretary,
Directorate of Vigilance,
Old Secretariat,
Delhi.
4. Director of Health Services (DHS),
through its Director,
F-17, Karkardooma,
Delhi.

..Respondents.

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

Shri Justice V.S.Aggarwal:

The applicant was working as Stenographer Grade-I. He was facing disciplinary proceedings. Following articles of charge had been served on him:

"That the said Shri R.R.Sharma while functioning as Asstt. Housing Commissioner in the Labour Department failed to maintain devotion to duty and acted in a manner unbecoming of a Govt. Servant in as much as he had been on authorised absence from duty with effect from 3.3.92 to 12.5.93, 17.7.93

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to 2.8.93 and 2.6.94 to 2.7.96 and also disobeyed the orders of his superiors."

2. The enquiry officer had been appointed, who submitted the report that the charge of absence from duty from 3.3.92 to 12.5.93 has been proved and besides the charge of absence, the charge of disobeying the orders of his superiors was partly proved. The disciplinary authority on 16.3.2001 recorded that despite the show cause notice, reply has not been submitted by the applicant and thereupon imposed a penalty:

"Taking all the facts and circumstances of the case into account, the undersigned is of the considered opinion that Shri R.R.Sharma, Charged Officer failed to maintain devotion to duty and exhibited the conduct unbecoming of a Government Servant and for that reason he deserves to be penalised adequately so that it may be a deterrent for him and others as any leniency on that account would send wrong signals to the officials indulged in such activities. Keeping in view the whole gamut of circumstances the undersigned feels that a penalty of reduction in the time scale of pay would be commensurate with the onerous of guilt proved against him and meet the ends of justice also."

3. The applicant preferred an appeal which was dismissed by the Lt.Governor. He seeks to assail the orders passed by the disciplinary as well as the appellate authorities.

4. To keep the record straight, we may also mention that earlier the applicant had preferred OA 730/96. The Tribunal had disposed of the same on 24.1.2000 with the direction to hold disciplinary proceedings expeditiously and complete the same within 6 months. It is also not disputed that the applicant has since superannuated on 30.4.2002.

5. OA has been contested. Learned counsel for applicant

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had raised two arguments:

a) the report of the enquiry officer had been communicated to the applicant. He sent representation but it was not put up before the disciplinary authority, and the disciplinary authority passed an order without considering his reply/representation;

b) there was undue delay in initiation of the disciplinary proceedings which is stated to be 8 years in the present case.

6. So far as the first contention of the applicant is concerned, the facts reveal that on 5.2.2001, the applicant was conveyed the report of the enquiry officer. Representation of the applicant, if any, was called within 15 days. The applicant had submitted a representation addressed to the Chief Secretary, Delhi Administration, i.e. disciplinary authority. The same is dated 28.2.2001. However, the representation was served in the office of Director of Vigilance. It was forwarded to the disciplinary authority only on 13.3.2001 and therefore, seemingly it was put up before the disciplinary authority.

7. Learned counsel for the respondents pointed that the appellate authority, in any case, had considered the representation that was submitted and no prejudice was caused to the applicant.

8. On perusal and consideration of the matter, we find that in the facts of the present^{case} such a plea cannot be accepted. When the representation is made, it is necessary to give a fair opportunity to the concerned person to represent his case and also it may help the disciplinary authority to give a rightful conclusion. When the representation had been sent to the concerned authority,

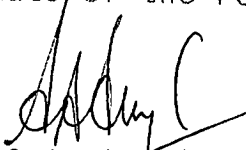
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who was otherwise dealing with the applicant, there was some delay in forwarding the same to the disciplinary authority. It goes without saying that the claim of the applicant was not properly considered by the disciplinary authority.

9. By another limb of same argument, the applicant's counsel also pointed out that the Lt. Governor has already opined in this regard and thus sending of file by the Tribunal to the disciplinary authority may be an idle formality with respect to rejecting his claim also. We are of the considered opinion that the disciplinary authority shall consider the representation on its merits unmindful of any other findings arrived at.

10. Keeping in view the procedural lapses that have occurred while dealing with the first contention, we quash the impugned order and direct that the disciplinary authority would consider the representation and thereafter may pass a fresh order in accordance with law. Necessary order may be passed preferably within four months from the date of the receipt of certified copy of the present order.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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