$~R-18

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4377/2002

SH. JAWALA PRASHAD ..... Petitioner
Through None.

versus

UOI & ORS. ..... Respondents
Through Mr.Bhagvan Swarup Shukla, Adv. for UOI.
Mr.Naushad Ahmed Khan, Adv. for GNCTD.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MR. JUSTICE VINOD GOEL

ORDER

% **11.01.2017**

Rule DB was issued on 24th July, 2002. Since the pleadings were not complete, the matter was placed before the Registrar (Appellate) on 18th May, 2005, 30th November, 2005, 10th March, 2006 and 2nd May, 2006. None appeared for the petitioner on the above dates of hearing before the Registrar (Appellate). Although counter affidavit has been filed, rejoinder has also not been filed.

Challenge in this writ petition is to the order dated 11th January, 2002 passed by the Central Administrative Tribunal (hereinafter referred to for short as ‘the Tribunal’). The petitioner was appointed as an Inspector of Industries, Delhi Administration, on 7th January, 1965. Between 15th April, 1988 to 19th August, 1988 while working as Sales Tax Officer in Ward No.15, petitioner issued 70 S.T. forms to M/s Ajay Metal Stores, a dealer of the said Ward.

A charge sheet was issued to the petitioner on the last working day i.e. on 28th June, 1996. Article of the charge reads as under:

> "ARTICLE OF CHARGE
>
> While functioning as Sales Tax Officer in Ward-15 (old), Shri Jwala Prasad had issued 70 ST-35 Forms to M/s. Ajay Metal Stores without ensuring the safeguard of Government revenue and also invoking the provisions of Section 18 of D.S.T. Act, 1975 and thereby put the Government revenue at stake. The said dealer being involved in nefarious activities caused a loss of about 60 Lakhs to the Government revenue.
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> Thus, Shri Jwala Prasad, ex-STO, had shown negligence and dereliction to duty in the matter of issuing of forms to a dealer engaged in nefarious activities and caused a heavy loss to the Government revenue and thereby failed to maintain absolute integrity and hence violated the provisions of Rule 3 of the CCS (Conduct) Rules, 1964."

An Inquiry Officer was appointed on 15th May, 1997. An inquiry report was submitted on 2nd February, 1999. The Disciplinary Authority passed an order dated 6th January, 2000. In the OA filed, the petitioner impugned the Charge Memo dated 27th June, 1996, Inquiry Report dated 2nd February, 1999 and the order of the Disciplinary Authority dated 6th January, 2000. The Inquiry Officer in his report dated 2nd February, 1999 divided the charges into four parts as under:

i) Applicant had issued 70 ST-35 forms to the dealer without ensuring the safeguard of Government revenues;

ii) He did not invoke the provisions of Section 18 Delhi Sales Tax Act 1975;

iii) He did not check the nefarious activities of the dealer; and

iv) His aforesaid negligence caused a loss of about Rs.60 lakhs to Government revenue.

In the report, the Inquiry Officer held that parts (ii) and (iv) were proved while parts (i) and (iii) were not proved. Upon receipt of representation on behalf of the petitioner on 8th June, 1999 advice of UPSC was sought which was received on 7th December, 1999 in which it was stated that ends of justice would be met if penalty of 10% cut in the pension, otherwise, admissible was imposed on the petitioner for a period of 5 years. This advice was accepted by the Disciplinary Authority and an order of 6th January, 2000 imposing penalty of 10% cut in petitioner's pension for a period of 5 years was passed under Rule 9 of the CCS (Pension) Rules, 1973.

By a detailed order dated 11th January, 2002, the Tribunal has dismissed the OA. The concluding paragraph of the judgment reads as under:

> "21. We may summarise. It is not denied that during the short span of 2 ½ months between 1.7.88 and 16.9.88 applicant issued to M/s Ajay Metal Stores a firm that was registered as recently as 10.2.88, as many as 70 ST Forms on the basis of which that firm made concessional purchases (without payment of Sales Tax) to the sum of Rs.3.15 crores. Upon some fault being found on a specific applications applicant himself stopped issuing further forms on 13.10.88 and on 18.1.89 during routine inspection the firm was found closed. The firm thus successfully evaded payment of sales tax on the purchases worth Rs.3.15 crores, and that sum was thus loss to the authorities through applicant's negligence in issuing such a large number of ST forms to M/s Ajay Metal Stores without due care and caution, which is punishable under Rule 9(1) CCS (Pension) Rules. Applicant got full opportunity to defend himself; the penalty is one that could be legally imposed and cannot be said to be excessive considering the magnitude of the loss of revenue; and was imposed by an authority competent to impose the same."

Despite the matter being shown in the regular board of this Court, none is present on behalf of the petitioner. Resultantly the writ petition is dismissed for non appearance.

G.S.SISTANI, J.

VINOD GOEL, J.

JANUARY 11, 2017/jitender