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

+ W.P.(CRL) 2571/2018

RAVINDER RANA

..... Petitioner

Through: Mr N. S. Dalal, Mr D. P. Singh, Ms
T. Banerjee and Mr Manu Kharra,
Advocates.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondents

Through: Mr Sanjay Lao, ASC for State.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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03.12.2019

1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 16.06.2013 passed by the Dy. Superintendent, Jail No. 4, Tihar Jail, New Delhi, whereby punishment was awarded to the petitioner on the ground that his conduct was against jail discipline. The petitioner also impugns an order dated 18.07.2018 passed by the Superintendent-I, Tihar Jail, whereby the petitioner's request for placing him in a semi open jail, had been rejected.

2. The petitioner had been sentenced to serve rigorous imprisonment for life by the Learned Additional Sessions Judge-02, Patiala Courts vide judgment and order dated 27.02.2013. The sentence was passed in the case relating to FIR bearing No. RC-1 (S)/2005/SCU-1, under Sections 302/307 of the Indian Penal Code, 1860 and Section 27 of the Arms Act, 1959,

registered with Central Bureau of Investigation (CBI), Delhi. The appeals of the petitioner against the said sentence have been rejected by this Court and the Supreme Court.

3. On 16.06.2013, at about 18:20, it was reported by a duty officer (Sh. Suresh Kumar) that an inmate (the petitioner herein) was asked to report at Dehody for some official purpose. While doing so, it was alleged that the petitioner got into an argument with the abovementioned duty officer and misbehaved with him on some trivial issue.

4. In view of the abovementioned incident, the Assistant Superintendent issued an order dated 16.06.2013, which took note of the abovementioned incident and initiated the process for punishing the petitioner.

5. It is stated by respondent no.2 that an opportunity was given to the petitioner to defend himself. Thereafter, the punishment to suspend his *mulakat* (visitation rights) and his phone facilities, was imposed subject to the appraisal of the District and Sessions Judge.

6. It is stated that Districts and Sessions Judge considered the matter on 22.07.2013 and appraised the punishment awarded to the petitioner.

7. Thereafter, in 2018, the petitioner made an application for lodgement in a semi open jail. However, the jail authorities did not address the application of the petitioner. Aggrieved by the same, he filed a Writ Petition bearing No. 485 of 2018 before this Court praying that appropriate directions be issued to the concerned authorities.

8. The aforesaid writ petition was disposed of by this Court by an order dated 15.02.2018, whereby this Court directed the appropriate authorities to

consider the petitioner's application to move him to a semi open jail in a time bound manner.

9. The application of the petitioner was considered in a meeting held on 05.07.2018 and by the order dated 18.07.2018, his application was rejected.

10. Thereafter, the petitioner filed the present petition.

11. Insofar as the petitioner's grievance regarding not being placed in a semi open jail is concerned, the same does not survive. It is stated that the Selection Committee has, in a meeting held on 30.09.2019, ordered that the petitioner be lodged in a semi open jail, subject to his furnishing a personal bond of ₹10,000/- along with a surety in the like amount to the satisfaction of the Jail Superintendent.

12. The petitioner is also not aggrieved by the punishment imposed on him by the order dated 16.06.2013. As noticed above, the petitioner was punished by suspending his *mulakat* and phone facilities for a period of two weeks. The petitioner has already undergone the said punishment. The petitioner is, essentially, aggrieved by the consequences of the said punishment as according to the petitioner, the remission of sixty-five days earned by him has been deducted on account of that punishment. It is contended on behalf of the petitioner that the petitioner was not informed of the punishment and was not afforded an opportunity to be heard in relation to the same.

13. It is further submitted that the punishment was only limited to suspending his *mulakat* and phone facilities and no punishment regarding reducing any period of his remission had been imposed. It is submitted that in the circumstances, the deduction in the period of remission by sixty five

days is not sustainable.

14. The status report has been filed wherein it is explained that the remission earned by the petitioner has not been deducted. However, the respondents have not awarded remission of seventy five days in view of the petitioner's conduct.

15. It is well settled that the award of remission in the sentence awarded is not a matter of right and the same is subject to the convict's conduct being good. Since the petitioner had been punished, he was not awarded the remission in accordance with Rules. Neither any show cause notice was required to be served on the petitioner nor was any opportunity of hearing required to be afforded to him as the matter did not relate to deducing any remission that was already granted to him, but was about not awarding him remission of sentence.

16. Insofar as the petitioner's contention that he had not been afforded an opportunity of hearing before the order dated 16.06.2013 was passed is concerned, the order dated 17.06.2013 records that the petitioner was heard before the punishment was imposed. This Court is not inclined to enquire into the matter any further, considering that the punishment was imposed on the petitioner more than five years prior to filing of the present petition. It has also been put on record that the punishment imposed on the petitioner had been appraised by the concerned District and Sessions Judge.

17. During the course of arguments, Mr Dalal, learned counsel appearing for the petitioner, had raised an issue with regard to calculation of the period of remission that was not awarded to the petitioner on account of the punishment imposed on him. He had stated that there is no rationale for

computing the period of sixty-five days as informed to him. In this regard, it has been explained that the petitioner was not awarded remission for a period of seventy-five days (and not sixty-five days). It is stated that the petitioner was not awarded remission of fifteen days in terms of Rule 78 of the Delhi Jail Manual, 2000 as the petitioner's conduct was not good. He was also not awarded forty-five days of remission as was awarded by the order of Director General (Prisons). In addition, he was also not awarded remission of fifteen days in terms of Rule 77 of the Delhi Jail Manual. Thus, in all, the petitioner was not awarded remission of seventy-five days and not sixty-five days as informed to the petitioner earlier. The Superintendent, Central Jail has filed an affidavit affirming that there was an inadvertent error in miscalculating the period of remission that was not awarded. He states that inadvertently it was calculated as sixty-five days but in terms of the relevant Rules, the petitioner was not awarded remission of seventy-five days.

18. In view of the above, this Court finds no infirmity with the decision of the respondents to not award remission to the petitioner for the relevant period.

19. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

DECEMBER 03, 2019
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