

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO. 2201/2002

New Delhi this the 24 th day of September, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J).  
Hon'ble Shri S.A.T. Rizvi, Member(A).

Shri S.P. Pandey,  
S/o Shri R.N. Pandey,  
R/o 13, Vaishali, Kotra,  
Sultanabad, Bhopal (MP). ... Applicant.

(By Advocate Shri V. Sekhar with Shri Vishnu Sharma)

## Versus

Union of India through  
Secretary,  
Ministry of Home Affairs,  
North Block, New Delhi. . . . . Respondents.

ORDER

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).

The applicant is aggrieved by the order issued by the respondents dated 14.8.2001 by which they have informed him that the President proposes to hold an enquiry against him on the alleged article of charges/misconduct as per the annexure to the Memorandum. One of the main grounds urged by the learned counsel for the applicant is that the impugned Memorandum of Charges has been delayed too much because it deals with the situation which is alleged to have happened sometime in the year 1994-95. According to him, there has been far too much delay on the part of the respondents in initiating the disciplinary proceedings against the applicant. He relies on the judgements of the Hon'ble Supreme Court in State of M.P. Vs. Bani Singh and Anr. (1990 (Supp) S.C.C 738) and State of Punjab & Ors. Vs. Chaman Lal Goyal (J.T. 1995 (2) S.C. 18).

He has also submitted that the applicant has submitted his reply to the aforesaid charge-sheet denying the article of charges and imputations. Learned counsel has submitted that the respondents have appointed the Inquiry Officer and Presiding Officer this year in respect of the Departmental proceedings initiated against the applicant by the impugned order. He has submitted that relying on the aforesaid judgements of the Hon'ble Supreme Court, as there has been <sup>an</sup> ~~an~~ inordinate delay on the part of the respondents in issuing the impugned Memorandum of Charges, on this ground alone the same should be quashed and set aside.

2. We have perused the Memorandum of charges together with the annexures, including the article of charges and statement of imputations and misconduct in respect of the article of charge. These relate to alleged financial transactions wherin it has been stated that several irregularities were committed under the authority of the applicant with connivance of subordinate officers in misutilisation of Rs.1,00,000/- (Rupees one lac) <sup>for</sup> ~~only~~, which was granted to 40 Bn., BSF at Khem Karan on 1.9.1994, as reward money for the welfare of the troops. A number of documents and <sup>have been</sup> witnesses listed along with the article of charge. Taking into account the nature of the charge and the allegations contained in the impugned Memorandum, we are unable to agree with the contentions of the learned counsel for the applicant that only on the ground of delay of about six years or so, the Memorandum should be quashed and set aside. In Chaman Lal Goyal's case (supra), the Supreme Court has held as under:

"13. Applying the balancing process, we are of the opinion that the quashing of charges and of the order appointing enquiry officer was not warranted in the facts and circumstances of the case. It is more appropriate and in the interest of justice as well as in the interest of administration that the enquiry which had proceeded to a large extent be allowed to be completed....

14. ...wherever delay is put forward as a ground for quashing the charges, the court has to weigh all the factors, both for and against the delinquent officer and come to a conclusion which is just and proper in the circumstances. In the circumstances, the principle of the said decision cannot help the respondent".

3. In the above facts and circumstances of the case in which the impugned Memorandum dated 14.8.2001 has been issued, what has been alleged is financial misutilisation of funds meant for the welfare of troopes in which several irregularities have been stated to have occurred under the authority of the applicant, in connivance with several other subordinate officers. Looking at the nature of the charges which have admittedly been denied by the applicant, we are unable to agree that only on the ground of delay which has occurred, the same should be set aside having regard to the judgements of the Supreme Court (supra). It is also noted that the Presenting Officer and Inquiry Officer have been appointed in this case this year. Accordingly, we find no merit in this application to set aside the impugned order only on the ground of delay as urged by the learned counsel for the applicant. The O.A. accordingly fails and is liable to be dismissed.

4. However, taking into account the facts and circumstances of the case, since it is mentioned that the respondents have already appointed the Inquiry Officer and Presenting Officer in 2002, we hope that the respondents will proceed in the Departmental proceedings in accordance with the relevant rules and instructions and conclude the

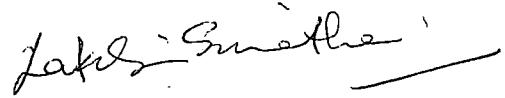
Br

same within six months as provided in these rules/instructions.

5. With the above observations and for the reasons given above, the O.A. is dismissed.



(S.A.T. Rizvi)  
Member (A)



(Smt. Lakshmi Swaminathan)  
Vice Chairman (J)

1 SRD