

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

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O.A. No.1946 OF 2002

New Delhi, this the 19<sup>th</sup> day of May, 2003

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN  
HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Shri S.K. Shangari  
Chief Engineer  
Chief Electrical Inspector,  
E-IN-C's Branch, Army Headquarters,  
New Delhi-110011.

....Applicant

(By Advocate : Shri V.S.R. Krishna)

Versus

Union of India,  
Through :-

1. The Secretary,  
Ministry of Defence,  
Government of India,  
South Block,  
New Delhi.

2. The Engineer-in-Chief  
E-IN-C's Branch,  
Army Headquarters,  
New Delhi-110011.

....Respondents

(By Advocate : Shri R.P. Aggarwal)

O R D E R

Justice V.S. Aggarwal, Chairman :

Applicant (S.K. Shangari) is a Chief Engineer in the Military Engineering Service. By virtue of the present application, he seeks quashing of the charge-sheet dated 6.3.2002 issued by the respondents.


2. The relevant facts are that the applicant is also the President of Indian Defence Service of Engineers Association and in this process, he had been taking up the matters of the Association and earned the wrath of certain Army officers. They were determined to sabotage the career of Civil Engineers



including the applicant. So far as the statement of imputation of misconduct is concerned, the applicant contends that there is no material on the record as to how there could be lack of devotion to duty and the same had been issued with a view to prevent him to undertake the visit abroad and only to harass and humiliate him. On these broad facts, the abovesaid relief is being claimed.

3. In the reply filed, the respondents plead that the work of AC Plant for DIPAC was sanctioned. The report had recommended 3 X 100 TR capacity of AC Plant reciprocating type of compressors. The applicant was working as SOI E/M and ACE (Planning) in the Headquarters. He failed to discharge his duty for reasons which for the present, need not be gone into. A departmental court of enquiry was ordered in September, 1997 to examine the causes and circumstances leading to premature failure of the AC Plant. The enquiry report was submitted in January, 1998 wherein the applicant was found responsible for the lapses in planning. On receipt of the enquiry report, the matter was examined. The Central Vigilance Commission advised initiation of major penalty proceedings against the applicant. It is thereupon that a memo was issued. On merits of the matter, it is denied that there is any bias or prejudice caused in this regard.

4. During the course of submissions, the



learned counsel for applicant has drawn our attention to the fact that the decision pertaining to which the action is being taken against the applicant had been so taken collectively and a large number of other officers were present, as is apparent from the minutes of the discussion held. No action, according to the learned counsel, was being taken against those officers and the applicant is simply being made the scapegoat.

5. At this stage, we are not expressing ourselves on that account, the reason being that it is premature to dwell into all those controversies. If no action is being taken against others, at appropriate time, this can be taken care of. At the initial stage when only statement of articles of charge had been served, it is too early to express oneself in this regard.

6. When statement of article of charge only has been conveyed, necessarily there would be limited scope for interference. The Supreme Court in the case of **The Deputy Inspector General of Police V. K.S. Swaminathan**, JT 1996 (10) S.C.40 clearly provided that the Tribunal would only consider whether the statement of facts and the material disclose alleged misconduct or not. If the charge memo is vague and discloses misconduct, such an interference may be called for, but truth or otherwise of the charges should not be looked into at the initial stage. The findings of the

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Supreme Court in this regard are:-

"4. It is settled law by catena of decisions of this Court that if the charge memo is totally vague and does not disclose any misconduct for which the charges have been framed, the Tribunal or the Court would not be justified at that stage to go into whether the charges are true and could be gone into, for it would be a matter on production of the evidence for consideration at the enquiry by the enquiry officer. At the stage of framing of the charge, the statement of facts and the charge sheet supplied are required to be looked into by the Court or the Tribunal as to the nature of the charges, i.e., whether the statement of facts and material in support thereof supplied to the delinquent officer would disclose the alleged misconduct. The Tribunal, therefore, was totally unjustified in going into the charges at that stage. It is not the case that the charge memo and the statement of facts do not disclose any misconduct alleged against the delinquent officer. Therefore, the Tribunal was totally wrong in quashing the charge memo. In similar circumstances, in respect of other persons involved in the same transactions, this Court in appeals arising out of SLP (C) Nos.19453-63 of 1995 had on February 9, 1996 allowed the appeals, set aside the order passed by the Tribunal and remitted the matter holding that:

"This is not the stage at which the truth or otherwise of the charges ought to be looked into. This is the uniform view taken by this Court in such matters."

With this limited scope, we, therefore, address ourselves to the statement of article of charge, the same reads as under:-

"That the said MES 260366 Shri S.K. Shangari, SE (now CE) while functioning as SO-I E/M & ACE(Plg), in Chief Engineer Delhi Zone during the period from 01 Dec 1993 to 27 Sep 1996 was responsible as per duties given in E-in-C's Branch letter

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No.41917/E2(WPC) dated 26 Oct 1992 for technical efficiency and contract planning with regard to CA No.CE DZ-18/93-94 : Provn of AC Plant for DIPAC. The main Air Conditioning Plant failed prematurely.

An inquiry has blamed Shri S.K. Shangari for flaws in technical evaluation, contract planning, scrutiny of T Bids and framing of tenders."

7. A reading of the statement of article of charge which is followed by the statement of imputation of misconduct does not compel and prompt us to come to a conclusion that on the face of it, it can be termed that no case is drawn or it is liable to fail being totally vague, illegal or betraying common sense. Therefore, further opinion is not being expressed, but for the present, the plea is rejected.

8. Some attempt has also been made to impute mala fides in this regard on the ground that the applicant was the President of the Association referred to above and that there was bias towards him and other similarly situated engineers. Bias would always be a question which can be inferred if there is some other material rather than the allegations. As for the present, the other material is not on the record and for the present, the plea must fail.

9. In that event, the learned counsel for the applicant highlighted the fact that there is inordinate delay in initiation of the departmental proceedings and, therefore, on this short ground the same should be quashed. He relied upon a decision of this Tribunal in the case of B.M. Mittal vs. Union

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of India and another in OA No.873/PB/98 and OA 874/PB/98 (Chandigarh Bench) rendered on 5.5.1999. In the cited case, alleged misconduct had been committed in the year 1999. The charge memo was issued after a lapse of eight to nine years and this Tribunal had quashed the same.

10. It is abundantly clear from the aforesaid that that was a matter of inordinate delay and, therefore, the same was quashed. As would be noticed hereinafter, the present case cannot be termed to be one of inordinate delay for interference.

11. Delay by itself does not prove to be fatal, but if prejudice is caused necessarily, this might be a ground to quash the proceedings ( see **B.C.Chaturvedi v. Union of India and others**, 1995(5) S.L.R.778). In the present case in hand, it appears that when a defect was noticed thereafter a court of inquiry was directed and a report was received in 1998. It has been explained during the course of submissions that the Central Vigilance Commissioner had to be consulted. In this process, it cannot be termed that there is inordinate delay in this regard.

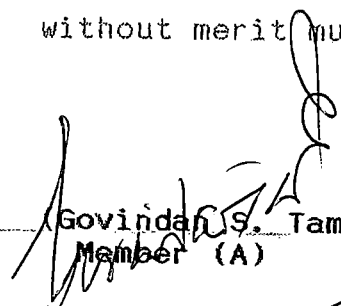
12. No other argument was raised.

13. For these reasons, the application being

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without merit must fail and is dismissed. No costs.



(Govindan S. Tampi)  
Member (A)

sns



(V.S. Aggarwal)  
Chairman

