

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.76/2002

New Delhi, this the 09th day of January, 2002.

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE MR. M.P. SINGH, MEMBER (A)

Dr.J.Sundaresan Pillai  
R/o F-62, CSIR Scientists Apartments  
Maharani Bagh  
New Delhi-110 065.

... Applicant

(By Advocate Shri S.M.Garg )

V E R S U S

1. Council for Industrial & Scientific Research  
through its Director General  
Anusandhan Bhawan  
Rafi Marg  
New Delhi-110 001.
2. National Institute of Science Communication  
through its Director  
Dr.K.S.Krishnan Marg  
New Delhi-110 012.
3. Shri K.L.Jain  
Inquiry Officer  
Through the Director  
National Institute of Science Communication  
Dr.K.S.Krishnan Marg  
New Delhi-110 012.

... Respondents

(Shri N.Jayaram, Under Secretary)

ORDER (ORAL)

Justice Ashok Agarwal:-

Applicant has been proceeded departmentally on 4 articles of charge. As far as charges No.2 to 4 are concerned, they were made subject <sup>matter of a</sup> to criminal prosecution wherein the applicant has been exonerated by the criminal court. When the enquiry officer initiated the proceedings, applicant apprehending that he would not receive due justice on account of the enquiry officer being biased against him, he moved an application before the enquiry officer for change of the enquiry officer.

Aforesaid application in terms of Rule 14(15) of the CCS (CCA) Rules read with OM No.39/40/70-Ests (A) dated 9.11.1972 was required to be forwarded by the enquiry officer to the reviewing authority for passing suitable orders. Enquiry officer, however, by the impugned order of 15.7.1998 at Annexure P-11 has proceeded himself to reject the prayer. The said enquiry officer is now taking steps to conduct the proceedings. Applicant has approached this Tribunal at this stage and has made a prayer that his prayer for change of enquiry officer should not have been rejected by the enquiry officer himself but was required to be considered and decided by the reviewing authority. Hence a direction should be issued to the reviewing authority to pass suitable orders on the said application.

21 The relevant portion of the OM No.39/40/70-Ests (A) dated 9.11.1972 recites as follows:-

"....whenever an application is moved by a Government servant against whom disciplinary proceedings are initiated under CCS(CCA) Rules, against the Inquiry Officer on the ground of bias, the proceedings should be stayed and the application be referred along with the relevant material, to the appropriate reviewing authority for considering the application and passing appropriate orders thereon. For this purpose the reviewing authority would normally be the appellate authority."


In our view, the claim made by the applicant is just and proper and deserves to be granted. In the circumstances, the order dated 15.7.1998 at Annexure P-11 is quashed and set aside and respondent No.1 who is the reviewing

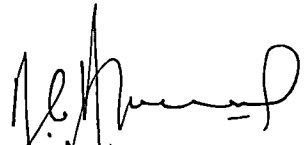
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authority is directed to consider the, aforesaid application of the applicant dated 16.5.1998 at Annexure P-9 and pass suitable orders thereon expeditiously and within a period of four weeks from the date of service of a copy of this order. It goes without saying that till such time ~~the~~ suitable orders are passed by respondent No.1, respondent No.3 being the enquiry officer will abstain from taking further steps in the enquiry.

3. The learned counsel appearing for the applicant has brought to our notice that the applicant has submitted an application on 29.12.2001 at Annexure P-22 to respondent No.2, the disciplinary authority for dropping articles of charge 2,3 & 4. Respondent No.2 will also pass suitable orders on the aforesaid application expeditiously.

Present OA is disposed of in the aforestated terms.

  
(M.P. Singh)  
Member (A)

  
(Ashok Agarwal)  
Chairman

/sns/

*With OA for info to 15.12.01  
Enquiry Proceeding*