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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA-3155/2002

New Delhi this the 7th day of July, 2008.

Hon'ble Mrs. Meera Chhibber, Member (J)
Hon'ble Mrs. Chitra Chopra, Member(A)

Prof. P.N.Bhat,
DI-102A, Satya Marg,
Chanakyapuri,
New Delhi-110021

.... Applicant

(through Shri Devesh Singh)

Versus

1. Union of India,
through Secretary,
Department of Agricultural Research & Education,
Government of India,
Krishi Bhvan,
Dr. Rajendra Prasad Road,
New Delhi-110001

2. President,
Indian Council of Agricultural Research,
Krishi Bhvan,
Dr. Rajendra Prasad Road,
New Delhi-110001

3. Director General,
Indian Council of Agricultural Research,
Krishi Bhvan,
Dr. Rajendra Prasad Road,
New Delhi-110001

4. Secretary,
Indian Council of Agricultural Research,
Krishi Bhvan,
Dr. Rajendra Prasad Road,
New Delhi-110001

5. Director (Vigilance),
Indian Council of Agricultural Research,
Krishi Bhvan,
Dr. Rajendra Prasad Road,
New Delhi-110001 .... Respondents

(through Shri Praveen Swarup and Shri R.K.Singh)

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ORDER

Mrs. Chitra Chopra, Member(A)

By this OA, applicant has impugned the order dated 19.9.2002 issued by Indian Council of Agricultural Research (ICAR) vide which respondents have imposed major penalty of 25% cut in pension of the applicant who retired on 31.10.1997.

2. As stated by applicant, he had been appointed as Deputy Director General (DDG)(Animal Sciences), ICAR in 1992. He had served as Director, Indian Veterinary Research Institute (IVRI) for a term of five years. Finally, in 1994, applicant was appointed Officer-on-Special Duty in the ICAR and retired from the ICAR in that capacity on 31.10.1997.

3. In the present OA, applicant has assailed the impugned order dated 19.9.2002 which was the culmination of charge sheet issued to him vide OM dated 22.12.1993 (Annexure A-6). Initially this OA was allowed vide Order dated 23.10.2003 primarily on the grounds that the Disciplinary Authority had already predetermined the issue of penalty while giving disagreement note, therefore, show cause was only a formality.

4. Against the aforesaid order dated 23.10.2003 of the Tribunal, respondents took the matter to the Hon'ble High Court of Delhi. Vide order dated 1.12.2005, the Hon'ble High Court was pleased to set aside the aforesaid order dated 23.10.2003 of the Tribunal by observing as follows:-

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> "The Council is the disciplinary authority of the petitioners and, therefore, one of the submissions that the said disagreement note was not considered and decided by the disciplinary authority is found to be without any merit.
>
> xxx xxx xxx
>
> In that view of the matter, the submission of the counsel for the respondent that the said disagreement note was a final decision and not a tentative opinion cannot be accepted. The Tribunal also fell into an error in considering the said opinion as a final opinion and not as a tentative opinion."

The matter was remanded back to the Tribunal to decide other issues on merits.

5. The applicant went in SLP before the Hon'ble Supreme Court which was dismissed vide order dated 13.8.2007, as under:-

> "Heard learned counsel for the parties.
>
> We have perused the order passed by the Division Bench and we are of the opinion that the view taken by the Division Bench is correct and there is no ground to interfere in this Special Leave Petition. The same is accordingly dismissed.
>
> The parties shall appear before the Tribunal on 11th September,2007"

6. In this backdrop, the matter has been heard at length on other issues by this Bench. The case of the applicant, as set out in the OA is as under:-

Applicant was appointed as Director, IVRI on 1.5.1984 for a term of five years, which was extended for another five years vide ICAR's letter dated 8.11.1988. However, on 25.01.1990, the Applicant was suddenly transferred and posted as Officer on

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Special Duty (OSD) at the ICAR Headquarters, New Delhi until further orders.

7. Aggrieved by the Transfer, applicant filed OA No.195/1990 before this Tribunal praying for quashing of the Transfer order. Meanwhile, during pendency of the said OA, vide order dated 17.5.1990, applicant was placed under suspension and it was stated that the disciplinary proceedings were contemplated against him (Annexure A-2). Applicant was served a show cause notice vide OM dated 27.6.1990 to respond to a list of 97 allegations (Annexure A-3). Applicant submitted his reply but despite giving reply to the aforesaid allegations and repeated opportunities to the respondents by the Tribunal to expeditiously complete the disciplinary proceedings contemplated against the applicant, this was not done. Vide order dated 31.10.1990 (Annexure A-4), this Tribunal allowed the OA and set aside the impugned order of transfer as well as suspension, giving liberty to the respondents to continue the investigation and enquiry against the applicant.

8. Respondents preferred SLP against the said order which was disposed of by the Hon'ble Supreme Court with the following order dated 7.8.1991:-

> "Under the circumstances, it is not necessary to express any opinion on the contentions raised on behalf of the petitioner challenging the order of the Tribunal. It has been brought to our notice that the disciplinary proceedings against the respondent are contemplated on a number of charges, but till today no charge sheet has been issued and the formal enquiry has not commenced. If the petitioners intend to take disciplinary

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> action against the respondent, they should complete at an early date **preferably** within three months. With these observations, the Special Leave Petition is disposed of...."

9. It is submitted that despite the direction of the Hon'ble Supreme Court, the charge sheet to applicant was served only on 22.10.1993 (i.e. after more than two years of Hon'ble Supreme Court's order) on the same allegations (viz. 13 of the original 97 allegations) as those contained in OM dated 27.6.1990 (Annexure A-3). The charge sheet which contained vague, frivolous and motivated charges against the applicant, was served on him with a view to disqualify him from the zone of consideration for the post of Director General, ICAR. Applicant rebutted the allegations. He learnt that the then Union Minister of Agriculture had dropped 12 of the 13 Articles of Charge contained in the charge sheet dated 22.12.1993. In respect of the 13th charge, it was decided that the same should be decided on receipt of the report of the CBI. However, this direction of the Union Minister of Agriculture was reversed and the matter was taken up by the respondent authorities for absolutely motivated reasons.

10. On 28.3.1995, the Commissioner for Departmental Inquiries in the Central Vigilance Commission, Government of India was appointed as Inquiry Officer to inquire into the charges against the applicant but in the inquiry proceedings the Presenting Officer took nearly 23 months to supply some of the relied upon documents to the applicant. The Inquiry Officer finally concluded the inquiry and submitted his detailed report to the ICAR on 31.07.1997 holding all

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the charges as 'not proved' (Annexure A-8). Applicant did not hear anything from the ICAR authorities thereafter. It was only on 24.8.2001, report of the CVC and the findings of the Inquiry Officer were made available to the applicant for the reasons best known to the respondents after about five years from the date of receipt of the report from the CVC. Applicant also received the disagreement note dated 17/24.8.2001 of the ICAR whereby the ICAR did not agree with the report of CVC regarding three Articles of charge (Annexure–12). In response, he gave representation dated 07.09.2001 seeking further documents. However, his contentions were rejected vide letter dated 17.1.2002 by means of non-speaking order and despite further representation dated 11.5.2002, respondents issued the impugned order dated 19.9.2002 in a most illegal, arbitrary and malafide manner imposing a penalty of 25% cut in pension.

11. With this factual matrix, the sole relief sought by the applicant is for quashing and setting aside the impugned order imposing penalty dated 19.9.2002 whereby the respondents have imposed a major penalty of 25% cut in pension.

12. Impugned order dated 19.9.2002 (Annexure A-1) has been challenged on the following grounds:-

i) For disciplinary proceedings initiated against a charged officer under Rule 9 of CCS (Pension) Rules,1972, consultation with the UPSC was mandatorily required as the proceedings in his case was completed after his retirement and Copy of the advice of UPSC along with

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reasons for disagreement was also required to be supplied to applicant.

ii) Respondents have erred in law in giving heed to the advice of the CVC dated 28.06.2001 whereby the Commission had advised the Council to impose a penalty of suitable cut in his pension. The acceptance of said advice is contradictory to the decision of this Tribunal.

iii) The delay in issuance of the charge sheet dated 22.12.1993 renders the entire disciplinary proceedings void ab initio. All the Articles of Charge were related to alleged acts of omission and commission attributed to the applicant for the duration 1984-1989 when the applicant was Director of IVRI. Furthermore, the charges contained in the said charge sheet were culled out of the charges contained in the initial show cause notice dated 27.6.1990 which had been withdrawn only to be replaced by a charge sheet dated 22.12.1993 with the sole object of overcoming and by passing the directions dated 7.8.1991 of the Hon'ble Supreme Court. The Inquiry Officer in his report dated 31.07.1997 absolved the applicant from all the charges contained in the charge sheet dated 22.12.1993. The CVC also agreed that the same should be accepted.

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iv) While disagreeing with the recommendations of the CVC, the ICAR did not consider the fact that applicant as the Director and Vice Chancellor had a supervisory role and in that capacity he had to either accept or reject the recommendations made by his subordinates, the Chief Accounts Officer and Chief Administrative Officer. While he as a Supervisory Officer can only be punished if the lower functionaries are found to be guilty of the offence and the supervisory Officer fails in the function of supervision. But in this particular case, Applicant, as the Supervisory Officer, had accepted the recommendations of these officers. While the Supervisory Officer has been found guilty those officers who were responsible for processing the case, scrutinize the same and made recommendations, have not been punished.

v) The entire disciplinary proceedings were actuated by malice in law and the sole object of the said proceeding was to deprive the applicant of appointment to the post of Director General, ICAR to which he was a legitimate contender. The recommendations of the CVC on the report of inquiry were required to be supplied to the applicant before final decision was taken. This was not done despite his request.

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vi) The impugned order was not authenticated by an authorized officer and is, therefore, liable to be quashed and set aside, as the orders have been signed by Shri K.N.Kumar, Director (Vigilance) on behalf of the President, but the ICAR has not been designated for the purpose by the Director General.

13. Respondents, on the other hand, have opposed the OA. In the counter affidavit, filed on behalf of respondents, it is submitted that the OA is mis-conceived, untenable, hence liable to be rejected. It is submitted that the applicant, by way of present application, wants this Tribunal to act as an Appellate Authority against the order passed by the Statutory Authority. It is settled law that the Tribunal as well as the Hon'ble High Court cannot act as an Appellate Authority. Respondents have cited the following case laws in support of their contentions:-

i) **State of Andhra Pradesh Vs. S.Sree Rama Rao (AIR 1963 SC 1723);**

ii) **State of Andhra Pradesh &Ors. Vs. Chitra Venkata Rao (AIR 1975 SC 2151);**

iii) **High Court of Judicature at Bombay Vs. Shashi Kant S.Patel (2000 (1) SCC 416);**

14. It is further submitted that the respondents have not delayed the matter inordinately and the applicant has failed to show prejudice caused to him due to said delay.Charge sheet was served upon the applicant on 22.12.1993. He filed his defence statement on 9.2.1994 and after considering the same, the Disciplinary Authority decided to proceed with the inquiry which

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was held on several dates in which the principles of natural justice were followed by the Inquiry Officer and the applicant was given sufficient opportunity to defend himself. As many as 15 witnesses were examined from both the sides and after closing of the hearing, the Inquiry Officer had given the opportunity to the applicant as well as the Presenting Officer to submit their written briefs which were submitted on 24.6.1997 and 7.7.1997. Thereafter, the Inquiry Officer had given his report on 31.7.1997. The said report was examined by the Disciplinary Authority and since there was disagreement by the Disciplinary Authority, a fresh report was forwarded to CVC. The CVC was also of the opinion that the Inquiry Officer had erred while coming to the findings that no charge has been proved. Therefore, the reason for disagreement was duly communicated to the applicant vide letter dated 17/24.8.2001.

15. Respondents have further stated that applicant himself adopted dilatory tactics by writing letters to the extent that he required the documents that there is delay of four years and respondents answered his representations to this effect. Applicant was informed that the Inquiry Officer had already given all the documents which were necessary for adjudication of the charges leveled against him in the charge sheet dated 22.12.1993 and hence, there is no justification to furnish any more documents to him at this late stage. It is further submitted that the delay had occurred due to the fact that after receiving the inquiry report, the Disciplinary Authority had applied its mind and sent the report to the CVC and thereafter, the matter was placed before the Prime

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Minister of India in the capacity of Agriculture Minister/President of ICAR and to that extent, there was some delay in finalization of the inquiry proceedings. It is highlighted that when the disagreement was communicated to the applicant, he had delayed the proceedings for about a year by making frivolous representations. Respondents have placed reliance on the decision of **B.C. Chaturvedi Vs. UOI** (AIR 1996 SC 484) wherein the Hon'ble Supreme Court has held that the delay caused in consultation between the various authorities cannot vitiate the inquiry. Reliance has also been placed on **State of Punjab & Ors. Vs. Chaman Lal Goyal** (1995 (2) SCC 570) wherein the Hon'ble Supreme Court has held that merely because there is delay, the inquiry proceedings would not stand vitiated.

16. It is further submitted that the applicant is trying to confuse/mislead the Tribunal by stating various facts which are not germane for the adjudication of the challenge to the order dated 19.9.2002. The order dated 19.9.2002 vide which the penalty of cut of 25% I in the pension of the applicant has been imposed is the final outcome of the charge sheet dated 22.12.1993. The averments made by the applicant in regard to other charge sheets are not relevant.

17. In so far as the applicant's contention that UPSC has not been consulted, it is explained that this submission of the applicant is factually incorrect as the applicant was not appointed by the President of India but was appointed by the President of ICAR and, therefore, consultation with the UPSC before passing the final order

was not required. It is further submitted that the OA filed by the applicant is premature as he has not availed the remedies available under the CCS(CCA) Rules and the OA is liable to be dismissed on this ground also.

18. In the rejoinder affidavit, applicant has reiterated the submissions made in the OA.

19. We have heard the rival contentions of both the parties and perused the pleadings placed on record.

20. During the course of hearing, Shri Devesh Singh learned counsel for the applicant while reiterating the submissions made in the OA vehemently argued that applicant has been seriously prejudiced not only in issuing the charge sheet but even in conclusions also. The penalty order was issued only in 2002, four or five years after receipt of the advice of CVC. Learned counsel contended that not only there was inordinate delay but the entire charge sheet vitiated on the ground of mala fide as it was initiated to deprive of the post of Director General ICAR. Reliance was placed on the following cases:-

(i) **Yoginath D. Bagde Vs. State of Maharashtra** (1999 SCC(L&S) 1385)

(ii) State Bank of India Vs. D.C. Aggarwal and Another (WP No. 6558/1993)

(iii) State of Madhya Pradesh Vs. Bani Singh and Another (1991 SCC(L&S) 638)

(iv) **G. Ramachandran Vs. Sr. Supdt. Of Post Offices** (1987(3)ATC 629)

(v) **R.M. Shringarpur Vs. C.B.E.C.** (1988(7)ATC 59)

(vi) **E. Vedavyas Vs. Government of A.P.**

(1989(2)ATR 30)

(vii) **Manas Ranjan Das Vs. State of Orissa** (1973 (2)SLR 553)

(viii) **D.N. Sharma Vs. UOI** (1988(2)ATR 30)

(ix) **UOI Vs. Dr. V.M. Bhan** (WP No. 16510/2005(S) of Madhya Pradesh High Court)

(x) **UOI & Ors. Vs. M.V. Bijlani** (Civil Appeal No. 8267/2004) decided on 05.04.2006

(xi) **P.V. Mahadevan Vs. MD. T.N. Housing Board** (Civil Appeal No. 4901/2005) decided on 08.08.2005)

(xii) **State of A.P. Vs. N. Radhakrishan** (Civil Appeal No. 3503/1997) decided on 12.12.1996)

(xiii) **Krishan Kumar Vs. UOI&Ors.** (OA-689/2002 dated 12.11.2002)

21. Shri Praveen Swarup, learned counsel defending respondents submitted that admittedly there has been some delay but it is essentially procedural and due to consultation with CVC as there was disagreement with the findings of the Inquiry Officer. As far as mala fide is concerned, it is a bald allegation made by the applicant. Nowhere it is specified nor any names have been given to substantiate the allegations. Learned counsel while reiterating the submissions made in the written reply strongly argued that the departmental inquiry had been completed long back and the penalty was imposed in 2002. The charges against the applicant were serious in nature as they involved financial irregularities. Hence there is no justification for allowing the prayer of the applicant.

22. In regard to first ground of the applicant, we have seen the Rules and Bye-Laws of the ICAR. As it transpires, the appointments

are made by the Agricultural Scientists Recruitment Board (ASRB). Rule 25 of the Rules and Bye-Laws reads as under:-

> "25. There shall be an Agricultural Scientists Recruitment Board with a whole time Chairman and other members who shall be appointed by the President, with the approval of the Government of India."

In so far as the recruitment is concerned, the relevant Rule is reproduced below:-

> "26 (a) The Recruitment Board shall function as an independent recruiting agency and shall be responsible for recruitment to posts in the Agricultural Research Service and to such other posts and services as may be specified by the President from time to time.
>
> (b) xxxxxx xxxxxx xxxxxx
>
> (c)The Recruitment Board shall advise the Council in disciplinary matters relating to personnel recruited/appointed either by the Council itself or in consultation with the Recruitment Board."

23. From the above position, it is thus clear that the competent authority is President (viz. Agriculture Minister) and that the appointments in the ICAR do not require to be made in consultation with the UPSC. As the applicant was not appointed in consultation with the UPSC, reference or consultation with the UPSC in the disciplinary matters are also not required to be made. This ground is, therefore, liable to be rejected.

24. Coming to the next ground, viz. the reference to the CVC, it is not stipulated anywhere nor is it mandatory that the copy of the advice must be given to the applicant. This again has been held in a catena of judgments by the Hon'ble Supreme Court.

25. The next ground of the applicant is of predetermined mind at the time of issuing disagreement note. We are not going into the merits of this issue as it already stands settled by the Hon'ble High Court's order dated 1.12.2005 wherein it was clearly held that:

> "8. In that view of the matter, the submission of the counsel for the respondent that the said disagreement note was a final decision and not a tentative opinion cannot be accepted. The Tribunal also fell into an error in considering the said opinion as a final opinion and not as a tentative opinion."

26. The main ground raised by the applicant is that the proceedings were inordinately delayed and issuance of charge sheet with delay renders the entire proceedings void ab initio. In this connection, It is observed that the facts of the case undoubtedly show that there has been some delay in issuance of the charge sheet. However, since Hon'ble Supreme Court had given liberty to the respondents to take action against the applicant and complete the same preferably within three months on 7.8.91, the period upto 7.8.1991 has to be excluded. The charge sheet was issued only on 22.12.1993 i.e. after about two years but since charges are serious, the disciplinary proceedings cannot be quashed on the ground of delayed initiation of charge sheet. The second stage starts after the chargesheet is issued in completing the enquiry. It is seen that Inquiry report was submitted on 31.7.1997, but penalty on applicant was imposed only in 2002 well after his retirement on 31.10.1997. Although respondents have admitted that there has been delay in passing the final order, but they have also clarified that the delay is not only on the part of the respondents but applicant has also

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contributed to the delay by adopting dilatory tactics by writing letters and several representations during the course of the inquiry proceedings. Further, the delay in finalization of the inquiry is essentially due to the fact that there was disagreement by the Disciplinary Authority and the matter had to be addressed again in consultation with the CVC. Thus, the delay is largely due to the procedural processes which are invariably time consuming in disciplinary cases. At this juncture, it would be relevant to refer to **B.C.Chaturvedi's case (supra)**, wherein it was held by the Hon'ble Supreme Court that the delay caused in consultation between the various authorities cannot vitiate the inquiry.

27. We may again advert to the ruling of Hon'ble Supreme Court in **Chaman Lal Goyal's case (supra)** on the question whether delay in serving the charge sheet vitiated the charges. The Hon'ble Supreme Court held that this should be decided by the balancing process i.e. weighing the factors for and against and taking decision on the totality of circumstance. In that case, the High Court of Punjab had quashed the memo of charges communicated to the respondent-writ petitioner who was the Superintendent of Nabha High Security Jail in 1986. One of the grounds which led to quashing of memo of charges was delay of five and a half years in serving the memo of charges. The Hon'ble Supreme Court has held as under:-

> ..."The question is whether the said delay warranted the quashing of charges in this case. It is trite to say that such disciplinary proceeding must be conducted soon after discovering the irregularities. They cannot

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> be initiated after lapse of considerable time. It would not be fair to the delinquent officer. Such delay also make the task of proving the charges difficult and is thus not also in the interest of administration. Delayed initiation of proceedings is bound to give room for allegations of bias, mala fies and misuse of power. If the delay is too long and is unexplained, the court may well interfere and quash the charges. But how long a delay is too long always depends upon the facts of the given case. Moreover, if such delay is likely to cause prejudice to the delinquent officer in defending himself, the enquiry has to be interdicted. **Wherever such a plea is raised, the court has to weigh the factors appears for and against the said plea and take a decision on the totality of circumstances. In other words, the court has to indulge in a process of balancing."**

Even in the case of **State of A.P. Vs. N. Radhakishan** (1998 (4) SCC 154), it has been held by Hon'ble Supreme Court that each case has to be considered taking into account all relevant facts and circumstances. It has been observed that

> **"19. It is not possible to lay down any pre-determined principles applicable to all cases and in all situations where there is delay in concluding the disciplinary proceedings.** Whether on that ground the disciplinary proceedings are to be terminated each case has to be examined on the facts and circumstances in that case. The essence of the matter is that the Court has to take into consideration all relevant factors and to balance and weigh them to determine if it is in the interest of clean and honest administration that the disciplinary proceedings should be allowed to terminate after delay particularly when delay is abnormal and there is no explanation for the delay..... **In considering whether delay has vitiated the disciplinary proceedings the Court has to consider the nature of charge, its complexity and on what account the delay has occurred**.....Normally, disciplinary proceedings should be allowed to take its course as per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper

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explanation for the delay in conducting the disciplinary proceedings. **Ultimately, the Court is to balance these two diverse considerations."**

28. On weighing the pros and cons, we find that since charges leveled against applicant are serious and Disciplinary Authority has found them to be proved, this case cannot be allowed on the ground of delay alone specially when applicant has failed to show how any prejudice has been caused to him due to said delay. In view of the charges which stand proved, we feel penalty imposed on him is justified and cannot be termed as disproportionate. Though there has been some delay in passing the final orders but it cannot be attributed entirely to the respondents. It needs hardly any emphasis that for a departmental inquiry to proceed swiftly and smoothly, there must be cooperation from the side of the delinquent officer. There are definite indications that the applicant did make continuous representations. In **Chaman Lal Goyal's case (supra)**, it was observed by Hon'ble Supreme Court that by the date of judgment of the Hon'ble High Court, major part of the enquiry was over and this is also a circumstance going into the scale while weighing the factors for and against. In the present case, not only the inquiry stands completed but it has culminated in the imposition of penalty vide order dated 19.9.2002. Therefore, we do not think this case calls for any interference.

29. Coming to the next ground raised by the applicant that the charge sheet was motivated by malice as the charges are frivolous, vague and motivated with the object to disqualify the applicant from the post of Director General, ICAR. It would be pertinent to

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observe that the charges relate to financial irregularities and irregular appointments. However, the applicant has not mentioned the name of any person specifically who was responsible for motivating the charge sheet. It is settled law that when malice is alleged, it is not enough to make bald statement. The person against whom mala fide is alleged must be impleaded by name. Proper foundation has to be laid and it has to be demonstrated that there was indeed malice. The burden of proving malafides lies on the person who alleges such mala fide. The records do not bring out any specific person by name who was responsible for either motivating the charge sheet or was instrumental in stalling applicant's chances for promotion. In **Chaman Lal Goyal's case (Supra)**, it has been observed that

> "In the absence of any clear allegation against any particular official and in the absence of impleading such person eo nominee so as to enable him to answer the charge against him, the charge of mala fides cannot be sustained."

In the light of the above position, the ground of malafide cannot stand and is, therefore, rejected.

30. On the issue of quantum of penalty, it has been ruled by the Hon'ble Supreme Court in a catena of judgments that while exercising the power of judicial review, the High Court/Tribunal has no power to alter the penalty imposed by the Disciplinary Authority unless it is beyond all proportions. In the matter of scope of judicial review, It has been clearly ruled by the Hon'ble Supreme Court in **B.C. Chaturvedi's case (supra)** as follows:-

> **"A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty.** If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

31. Since penalty has been imposed on proved charges, we cannot sit in appeal over the quantum of punishment. Moreover, by no stretch of imagination, can it be stated that the penalty imposed is shocking the conscience. Therefore, this case calls for no interference on this ground also.

32. Having regard to all the submissions, and keeping in view the relevant facts and circumstances as also the nature of charges, on a balance of consideration, we feel it would not be appropriate for us to interfere in the impugned order at this stage.

33. OA is accordingly dismissed. No costs.

(Chitra Chopra)
Member(A)

(Mrs. Meera Chhibber)
Member (J)

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