

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

MA 1735/2003

in
OA 759/2002

W
New Delhi, this the 2 day of January, 2004.

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S. A. Singh, Member (A)

Lal Rikhuma Saila, Applicant
(By Advocate: Shri Yogesh Sharma)

Versus

Govt. of N.C.T. of Delhi & Ors. Respondents

(By Advocate: Sh. Mohit Madan proxy for Mrs. Avnish Ahlawat)

O R D E R

Justice V.S. Aggarwal, Chairman-

Applicant had filed OA 759/2002 which was disposed of by this Tribunal on 20.08.2002 with the following directions:

"We are of the considered opinion that ends of justice would be duly met if we dispose of the present OA with the directions to the respondents to complete the departmental proceedings and pass final orders in accordance with law and rules within a period of six months from the date of receipt of a copy of this order with a stipulation that if the enquiry is not completed within a period of 6 months and the applicant not being responsible for delay, the same shall be deemed to have been dropped/abated. In that event the applicant shall be considered for regular promotion to the next higher grade(s) from the date his so-called juniors were promoted in accordance with the Rules. The applicant shall also be entitled for all consequential benefits as a result of such promotions. We do so accordingly."

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2. An application has been filed on behalf of the applicant (MA No. 1735/2003) complaining that the original application had been disposed of directing the respondents to complete the disciplinary proceedings within six months. The said order has not been complied with. After the six months' period expired, a notice was served on the applicant seeking his representation pertaining to the penalty. The applicant had submitted the reply. It is contended that after the six months' period had expired the proceedings had abated.

3. The application has been opposed. According to the respondents, the charges against the applicant were pertaining to embezzlement of Government funds. It is further stated that there is no delay on its part after the order was pronounced by this Tribunal on 20.8.2002. No delay can be attributed to the respondents as during the enquiry, the applicant had adopted delaying tactics and showed his non-cooperative attitude. The enquiry report was received on 10.2.2003. It was sent to Central Vigilance Commission for second stage advice. Thereafter the applicant was asked to make a representation which he refused to do so. The respondents had filed an application praying for extension of time but meanwhile orders had been complied with and therefore the said application was dismissed to have become infructuous.

4. Learned counsel for the applicant contended that this Tribunal had categorically directed that in case the proceedings are not completed within six months, the

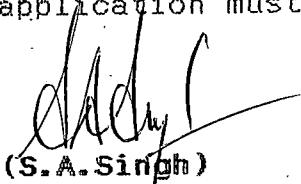
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proceedings shall be deemed to have been abated/dropped and therefore, once the proceedings had not been completed within six months, this must be held to have abated.

5. It is relevant to mention that the respondents had filed an application seeking extension of time but by that time the time granted had already expired and therefore, the application was dismissed.

6. However, so far as the order passed by this Tribunal is concerned, we have reproduced the same in the preceding paragraphs which shows that this Tribunal had directed that proceedings should be completed within six months but there was a rider that applicant should not be responsible for the delay. According to the respondents, the applicant was adopting dilatory tactics. If the applicant had been adopting dilatory tactics, rigour of the order, referred to above, will not come into play. This would be, therefore, not a question that can be gone into in the present Miscellaneous Application. The applicant, if so advised, may challenge the order that has been passed in accordance with law and the question raised can be considered at the relevant time.

7. Subject to findings recorded above, the present application must fail and is dismissed.


(S.A. Singh)
Member (A)

/na/


(V.S. Aggarwal)

Chairman