

8

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No.1396/2002

This the 9th day of October, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri V.K. Majotra, Member (A)

Subhash Sindhu
S/o Shri J.S. Sindhu
R/o H.No. 366, Gali No.21-A,
Swatanter Nagar, Narela,
Delhi-110 040

-Applicant

(By Advocate: Shri S.K. Gupta)

Versus

1. Govt. of NCT of Delhi,
Through its Chief Secretary,
Delhi Secretariat,
IG Stadium, IP Estate,
New Delhi-110 002.
2. Principal Secretary (Home)
Govt. of NCT of Delhi
Delhi Secretariat,
IG Stadium, IP Estate,
New Delhi-110 002.
3. Chief Fire Officer,
Delhi Fire Service,
Fire Headquarters,
Connaught Circus,
New Delhi-110 001

-Respondents

(By Advocate: Shri K.C.Naik, proxy for
Shri Ram Kanwar)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Member (A)

Applicant has challenged Annexure A-1 dated 29.4.2002 which is a chargesheet against the applicant under Rule 16 of CCS(CCA) Rules, 1965 relating to an incident which occurred on 7.3.1993. The learned counsel of the applicant stated that the charge sheet has been issued after a lapse of 9 years and such an inordinate delay is absolutely illegal and respondents cannot be allowed to proceed against the applicant in disciplinary proceedings based on the aforesaid

W

chargesheet. He has sought quashing and setting aside of the chargesheet. The learned counsel has relied on the decision of the Hon'ble Supreme Court in the case of **Union of India Vs. Bani Singh** AIR 1990 SC 1808 as also this Tribunal's order dated 21.3.2002 in OA-189/2002 **Jyoti Prasad Vs. Union of India** (Annexure A-2), which too was based on ratio in the matter of **Bani Singh**.

2. Learned counsel of the respondents referred to the short reply filed on behalf of respondents stating that administrative control of Delhi Fire Service was transferred to Govt. of NCT of Delhi from Municipal Corporation of Delhi in November 1994 and, therefore, respondents have not been in a position to process the old files, which delay should be treated to be due to the reasons beyond the control of the respondents. Learned counsel further stated that the ratio in the matters of **Bani Singh** and **Jyoti Prakash** (supra) is not applicable in the present matter. He further stated that applicant had committed serious misconduct and misbehaviour. It is, therefore, stated that this Tribunal should not interfere at this stage, while the enquiry is pending against the applicant.


3. We find from Annexure A-1 that applicant has been proceeded against under Rule-16 of CCS (CCA) Rules, 1965, which relates to minor penalty. If the charges are grave or serious, the respondents should not have proceeded against the applicant under Rule-16 of the CCS (CCA) Rules, 1965 but they should have

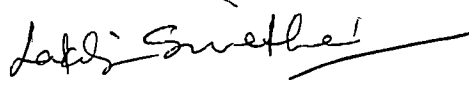
[Handwritten signature]

proceeded under any provisions of law for imposition of major penalty for commission of serious and grave misconduct. The reason stated by the respondents for causing delay in the matter of issuing the charge sheet for something committed in the year 1993 after such a long delay, have not been satisfactorily explained. Therefore, the ratio in the matters of **Bani Singh** and **Jyoti Prakash** (supra) is squarely applicable to the present matter.

4. As to the argument of the learned counsel of the respondents that in case the court interferes with the disciplinary proceedings at this stage, it would send wrong signals to all and sundry and particularly to the applicant who would be encouraged to continue misbehaving, the same is not acceptable because respondents have themselves sent a wrong signal by their inaction against the applicant for such long number of years and also choosing proceedings against the applicant only under Rule-16 of CCS (CCA) Rules, 1965.

5. In the facts and circumstances of the case and the reasons stated above, OA is allowed. We find that the chargesheet dated 29.4.2002 is liable to be quashed. Accordingly, we hereby quash and set aside the charge sheet against the applicant. No order as to costs.


(V.K. Majotra)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

cc.