CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1087/2001 with OA No.1089/2001

New Delhi, this 27th day of May, 2002

(12)

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J)
Hon'ble Shri M.P. Singh, Member(A)

M.L. Rawal
G-172, Dilshad Colony
Delhi .. Applicant in OA 1087/2001

Nand Lal
252, Mohalla Kalan
Sonepat, Haryana .. Applicant in OA 1089/2001

(Shri K.N.R.Pillai, Advocate for both applicants)

versus

1. Chief Secretary
   Govt. of NCT of Delhi
   Delhi Sachivalaya, IP Estate, New Delhi
2. Commissioner
   Food Supply & Consumer Affairs
   Department of Food & Supplies
   Govt. of NCT of Delhi
   K Block, Vikas Bhawan, New Delhi
3. Director of Education
   Govt. of NCT of Delhi
   Old Secretariat, Delhi .. Respondents

(Shri Mohit Madan, learned proxy counsel for
Smt. Avnish Ahlawat, Advocate)

ORDER(oral)

Smt. Lakshmi Swaminathan, Vice-Chairman(J)

We have heard Shri K.N.R.Pillai, learned counsel for the applicants and Shri Mohit Madan, learned counsel for the respondents in the aforesaid Original Applications i.e. OA 1087/2001 and OA 1089/2001. Both the learned counsel have submitted that the relevant facts and issues raised in these applications are the same and have therefore, submitted that the two cases which have been listed together may be disposed of by a common order. Accordingly, we proceed to dispose of the aforesaid two OAs by a common order.

2. For the sake of convenience, the facts in M.L.Rawal's case i.e. OA 1087/2001 have been referred to in the order. In this case, the applicant has sought setting aside of the disciplinary proceeding pending against him which was initiated by the respondents' Memo dated 15.9.1995. The impugned Memo initiating disciplinary proceeding in the case of the other applicant namely in OA 1089/2001, is also of the same date i.e. 15.5.1995. The main ground taken by Shri K.N.R.Pillai, learned counsel is that although disciplinary proceedings have been initiated by the impugned memo on 15.9.1995, the proceedings have been inordinately delayed and not completed by the respondents. Therefore on this ground, he has submitted that as the delay is attributable entirely to the respondents as they should have completed the proceedings within the period as provided under the Rules, the proceedings should be quashed and set aside and the applicant be granted consequential benefits, including promotion with full back wages.

3. On the other hand, Shri Mohit Madan, learned proxy counsel has submitted that there has been no deliberate or inordinate delay by the respondents in completing the disciplinary proceedings against the applicant. He has submitted that the time taken by them is due to certain administrative circumstances, owing to transfers of the concerned officers like the Inquiry Officer and, therefore, some delay has occurred which cannot be termed as deliberate or inordinate delay. The learned proxy counsel for respondents has also submitted that the Inquiry Officer has already completed the enquiry proceeding and it is only a matter of some short time for the disciplinary authority to take a final decision in

the matter, after complying with the relevant rules of giving an opportunity to the applicant to submit his representation on the Inquiry Officer's report. In the circumstances, learned proxy counsel has prayed that the respondents may be granted some time so that the disciplinary proceedings are completed by the disciplinary authority by passing appropriate orders in the matter. Shri K.N.R. Pillai, learned counsel has submitted that if the respondents still require a little time at this stage, that may be allowed to the respondents/disciplinary authority to pass final orders.

4. Having regard to the observations of the Hon'ble Apex Court in B.C.Chaturvedi V. Union of India (JT 1995(8) SC 65) and the State of Madhya Pradesh Vs.Bani Singh (1990 Suppl. SCC 738), the question of delay in such matters depends on the particular facts and circumstances of each case. In the facts and circumstances narrated by the respondents and also noting that in the present case the respondents have submitted that the enquiry proceedings have been completed and what remains is for the disciplinary authority to pass final orders in the matter, we consider it appropriate to dispose of the aforesaid two applications as follows:

(i) Respondents i.e. the disciplinary authority shall pass final orders in the pending disciplinary proceedings which have been initiated against the applicants by Memos dated 15.9.95 as expeditiously as possible and in any case within six weeks from the date of receipt of a copy of this order in accordance with law, rules and instructions.

(15)

(ii) Consequential benefits available to the applicants, including promotion, shall be considered by the respondents in accordance with law and rules after the aforesaid orders are passed;

No order as to costs.

5. Let a copy of this order be placed in OA 1089/2001.

(M.P. Singh)
Member(A)

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

/gtv/

Attested

Court Officer
Central Administrative Tribunal
Principal Bench, New Delhi
Faridkot House,
Copernicus Marg,
New Delhi-110001