

10

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO.1804/2001

This the 2nd day of April, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

Yug Dutt, ASI (Min.) No.2455/  
In C/O DCP, North Distt.,  
Delhi.

... Applicant

( By Shri Anil Singal, Advocate )

-versus-

1. Commissioner of Police,  
Police Headquarters,  
I.P.Estate, New Delhi.

2. Addl. Commr. of Police  
(Northern Range), PHQ,  
I.P.Estate, New Delhi.

3. Addl. DCP (North Distt.),  
Civil Lines, Delhi.

... Respondents

( By Shri Harvir Singh, Advocate )

ORDER (ORAL)

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

Applicant has assailed the punishment of withholding of one increment for a period of one year without cumulative effect imposed upon him in disciplinary proceedings against him. He has sought restoration of withheld increment with all consequential benefits.

2. Learned counsel of applicant, Shri Anil Singal, stated that the enquiry was initiated after a delay of more than five years and such an inordinate delay has caused prejudice denying applicant reasonable opportunity

*b*

of defence. For this, he has placed reliance on **E.Vedavyas v. Government of A.P. & Anr.**, 1990 (3) SLR 688 (CAT, Hyderabad).

3. Learned counsel next contended that the appellate authority modified the punishment imposed by the disciplinary authority from reduction of pay to that of withholding of increment but his conclusion that applicant "did not properly supervise his Branch" is outside the charges levelled against applicant. Thus, applicant cannot be awarded any punishment.

4. Learned counsel of respondents, on the other hand, stated that applicant was working in accounts branch as incharge of lower subordinate seat. As his duties were supervisory, the charge of negligence/carelessness in his supervisory duties was included in the main allegations against him. Thus, he could be held guilty of failure in supervision.

5. We have carefully gone through the charges and allegations against applicant. The charge of failure to supervise the functioning of accounts branch has not been levelled against applicant. Therefore, there is no justification with respondents to establish such a charge against him which does not find a mention in the chargesheet/summary of allegations. The plea of the learned counsel of respondents that the charge of failure in supervisory duties is included in the other charges levelled against applicant, is unacceptable.

12



- 3 -

6. In the case of **E.Vedavyas** (supra), a period of four years had elapsed before the memorandum of charges was issued and the respondents could not satisfactorily explain such delay. It was held by the Tribunal that in the absence of satisfactory explanation for delay in holding enquiry, delay amounts to denial of reasonable opportunity to show cause and also violation of principles of natural justice. In the present case, whereas the events related to May, 1992, the chargesheet was issued on 1.1.1997 without any satisfactory explanation for causing delay in issuing the chargesheet against applicant. The ratio of **E.Vedavyas** (supra) is certainly applicable to the facts of the present case.

7. Having regard to the reasons recorded and discussion made above, we hold that inordinate delay has been caused by respondents in holding the enquiry against applicant without providing any satisfactory explanation for the delay. This had certainly prejudiced the defence of applicant amounting to violation of principles of natural justice. We also hold that applicant had been held guilty of a charge which was not even mentioned in the chargesheet.

8. In this view of the matter, Annexure A-4 dated 24.2.1998 and Annexure A-5 dated 26.5.1998 punishing applicant in disciplinary proceedings are quashed and set aside and respondents are directed to restore to applicant his withheld increment with all consequential