

Central Administrative Tribunal, Principal Bench

Original Application No. 2422 of 2001

New Delhi, this the 13th day of September, 2001 (1)

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. V. K. Majotra, Member (A)

Dr. R. K. Nayak, IAS (Retd.)
ex-Secretary
Government of India
r/o 178/Type-III
Ayurvigyan Nagar,
Khelgaon Marg, New Delhi-49

- Applicant

(By Advocate: Dr. M. P. Raju)

Versus

Union of India
through the Secretary
Ministry of Personnel, Public
Grievances & Pensions
Dept. of Personnel & Training
North Block, New Delhi

- Respondent

O R D E R (ORAL)

By Justice Ashok Agarwal, Chairman

Applicant is an IAS officer of 1962 batch. He retired on superannuation on 28.2.97. Disciplinary proceedings were initiated against him by issue of a chargesheet of 28.2.97. The charge related to a period during 27.4.94 and 8.5.95 while he was Managing Director of Tribal Cooperative Marketing Development Federation of India Limited (in short 'TRIFED'), New Delhi. Aforesaid chargesheet was impugned by the applicant by instituting OA No. 680/97. By an order passed on 1.1.99, aforesaid chargesheet was quashed on the ground that the same had been issued without obtaining the requisite sanction and the approval of the Minister concerned. Liberty was, however, granted for issue of a fresh chargesheet after following the requisite procedure. Pursuant to the aforesaid liberty, a fresh chargesheet has been issued on 7.7.2000 at Annexure I. The same is impugned in the

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(2)

present OA, ~~mainly~~ be on the ground that by the aforesaid chargesheet, disciplinary proceedings are sought to be initiated after a period of four years from the date of misconduct alleged i.e. ^{after} ~~of the period of misconduct between~~ four years ~~after~~ the period between 27.4.94 to 8.5.95. Reliance is placed on Rule 6 (1) (b) (ii) of the All India Services (DCRB) Rules, 1958 which provides as under:

"6. Recovery from pension:- 6(1) The Central Government reserves to itself the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period, and the right of ordering the recovery from pension of the whole or part of any pecuniary loss caused to the Central or a State Government, if the pensioner is found in a departmental or judicial proceedings to have been guilty of grave misconduct or to have caused pecuniary loss to the Central or a State Government by misconduct or negligence, during his service, including service rendered or re-employment after retirement.

Provided further that -

6(1)(b) such departmental proceeding, if not instituted while the pensioner was in service, whether before his retirement or during his re-employment;

(i) shall not be instituted save with the sanction of the Central Government;

(ii) shall be in respect of an event which took place not more than four years before the institution of such proceedings; and (emphasis provided)

(iii) shall be conducted by such authority and in such place or places as the Central Government may direct and in accordance with the procedure applicable to proceeding on which an order of dismissal from service may be made.

.....

Explanation:- For the purpose of this rule: -

(a) a departmental proceeding shall be deemed to be instituted when the charges framed against the pensioner are issued to him or, if he has been placed under suspension from an earlier date: on such date."



(3)

2. On service of the aforesaid chargesheet, applicant has submitted his written statement on 25.7.2000 at Annexure IV, wherein he has amongst others taken the present plea. He has ^{also} sent a representation on 3.7.2001 at Annexure V. No decision thereon has so far been taken. Moreover, no steps have been taken in furtherance of the issue of the chargesheet.

3. Having regard to the aforesated facts, we find that interests of justice will be duly met by disposing of the present OA at this stage itself even without issue of notices with a direction to respondents to pass suitable orders on the aforesaid written statement and representations (reminders) and communicate their decision to the applicant expeditiously and within a period of six weeks from the date of service of a copy of this order. We direct accordingly. O.A. is disposed of in the aforesated terms.

Issue DASTI.

V.K. Majotra
(V.K. Majotra)

Member(A)

Ashok Agarwal
(Ashok Agarwal)
Chairman

/dkm/C