

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 3368/2001

New Delhi, this the 14th day of December, 2001

HON'BLE SH. V.K.MAJOTRA, MEMBER (A)
HON'BLE SH. KULDIP SINGH, MEMBER (J)

G. Chandersekar
E-33, CSIR Apartments,
Maharani Bagh,
New Delhi-110 065.

...Applicant

By Advocate Shri R. Venkatramani, Sr. Counsel with Shri S.M.
Garg.

Versus

1. Council for Scientific & Industrial
Research, Anusandhan Bhawan,
Rafi Marg, New Delhi-110 001.
 2. National Institute of Science
Communication,
Through its Director,
Dr.K.S. Krishnan Marg,
New Delhi-110 012.
 3. Shri K.L. Jain
Inquiry Officer,
Through Director-Incharge,
National Institute of Science Communication,
Dr.K.S. Krishnan Marg,
New Delhi-110 012.
- ...Respondents

O R D E R

By Sh. Kuldip Singh, Member (J)

The applicant has filed this OA under Section 19 of
the Administrative Tribunal's Act, 1985 praying for the
following reliefs:-

(a) Call for the records of the case.

(b) Pass appropriate orders or direction quashing the
departmental proceedings initiating against the applicant vide
memo dated 27.2.1998 issued by respondent No.2.

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(c) Pass appropriate order or direction quashing communications dated 13.3.2001 and 27.4.2001 of respondent No.3.

(d) Pass orders directing the respondents not to hold any departmental proceedings against the applicant without supplying the documents sought by him to prepare his defence, including the additional documents sought by the applicant vide his letter dated 12.10.1998.

(e) Pass such further orders which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case.

2. The facts, as alleged by the applicant in brief are, that the applicant is being proceeded with departmental enquiry for which he had been issued a memorandum dated 27.2.1998.

3. By means of this OA, the applicant wants quashing of the departmental proceedings and he is also seeking a direction to the respondents for not holding departmental proceedings further against the applicant without supplying documents sought by him to prepare his defence including the additional documents sought by him vide his letter dated 12.10.1998.

4. We have heard Shri R. Venkatramani, Sr. Counsel along with Shri S.M. Garg, Counsel appearing for the applicant.

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5. The learned counsel appearing for the applicant pointed out that along with the memo of charges, the applicant was supplied three documents. As per annexure A-3 to the charge-sheet, the department wanted to rely upon a complaint dated 4.2.1998 from Dr.Ms. Madhavikutty Haridass and similary one complaint dated 4.2.1998 from Ms. Geeta Mahadevan and one complaint from Dr. Shivakasundari. All these three documents refer to their earlier complaint dated 22.1.1998 wherein there were certain allegations about indecent and insulting behaviour toward these complainants at the hands of the applicant. The applicant had not been supplied the documents dated 22.1.1998, i.e., the original complaints made by these three lady officers, so based on the document dated 4.2.1998 the enquiry should not be allowed to proceed further and the respondents should be told not to proceed with the enquiry further until and unless the original documents are supplied.

6. The counsel for the applicant then also referred to an order passed on his earlier OA by this Tribunal in OA 1293/99 wherein also the applicant had sought a direction to allow him inspection and to take photocopies of certain documents listed at Annexure A-7 to that OA. While allowing the OA, the Tribunal observed as under:-

"7. We, therefore, dispose of this OA with a direction to respondents to call upon the Inquiry Officer to consider applicant's prayer for supply/access to earn of the documents in question, in the light of the instructions contained in aforesaid Rule 14(22) CCS (CCA) Rules, and in case he considers any documents as not relating to the case, record brief reason for coming to such conclusion. This exercise should be completed as expeditiously as possible, and till then respondents should not compel applicant to participate in the disciplinary proceedings. No costs.



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7. This Tribunal had allowed the OA with a direction to the respondents to call upon the Inquiry Officer to consider the applicant's prayer for supply/access to the documents in question in the light of the instructions contained in Rule 14 (22) of the CCS (CCA) Rules.

8. After that the applicant had filed a CP complaining non-compliance of the order and in the contempt proceedings also the court made an observation that the Inquiry Officer has concluded that many of the documents asked for are either not available and as such it was found the same cannot be construed to be wilful defiance of the Tribunal's order, so the CP was dropped.

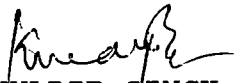
9. Now again the applicant has come up with the present OA that the Inquiry Officer had not complied with Rule 14 (22) of the CCS (CCA) Rules and has passed the order that the documents are not available and thus the applicant is being denied right to defend himself which has been done without following the principles of natural justice, so proceedings in the enquiry be stayed till the same are supplied.

10. We have considered the contentions raised by the applicant.

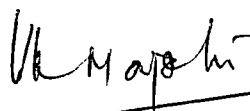
11. First of all the matter with regard to the supply of documents is nowhere res-integra since the same has been decided by this court in an earlier OA and the court had given direction to the respondents to call upon the Inquiry Officer to decide the application for supply of additional documents keeping in view the instructions given in Rule 14(22) CCS (CCA) Rules. Now since the Inquiry Officer has passed the

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necessary speaking orders holding that since certain documents are not available so we cannot give directions to the Inquiry Officer to procure the documents which are not available and only then to proceed with the enquiry. It is a well settled principle of law that if some documents are not available then the Inquiry Officer or any quasi judicial authority can proceed further with the enquiry, trial etc. and can draw adverse inference against the party holding those documents and the same principle can apply before the Inquiry Officer in the departmental proceedings and it is for the Inquiry Officer to follow the same. But merely because some of the documents which are not available and could not be supplied, we cannot direct and restrain the department from holding the enquiry further, so we find that the OA has no grounds and the same is dismissed in limine.


(KULDIP SINGH)
Member (J)

Rakesh


(V.K. MAJOTRA)
Member (A)