

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.513/2001

(10)

New Delhi this the 10th day of December, 2001.

HON'BLE MR. M.P. SINGH, MEMBER (ADMNV)
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

J.K. Vats,
S/o Shri J.D. Sharma,
R/o CD-III, L.D. Band Complex,
Shastri Nagar,
Delhi.

-Applicant

(By Advocate Shri B.S. Mainee)

-Versus-

1. Govt. of NCT of Delhi through
the Chief Secretary,
Government of NCT Delhi,
5, Sham Nath Marg, Delhi.

2. The Secretary,
Irrigation and Flood,
5/9 Underhill Road,
Delhi.

3. The Chief Engineer (I&F),
4th Floor, ISBT, Kashmere Gate,
Delhi.

-Respondents

(By Advocate Shri Ashwani Bhardwaj)

O R D E R (Oral)

By Mr. Shanker Raju, Member (J):

Heard the parties. The applicant has assailed an order passed on 26.4.2000, wherein the chargesheet has been issued under Rule 14 of the CCS (CCA) Rules, 1965. The applicant has sought quashing of the chargesheet.

2. The learned counsel for the applicant has mainly contended that as the charges pertained to 1986 issuing of chargesheet belatedly in 2000 cannot be sustained as there is no justified and reasonable explanation of delay the chargesheet is liable to be set aside in view of the decision of the Apex Court in State of Madhya Pradesh v. Bani Singh, AIR 1990 SC 1308 as well as

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in view of the decision of the Apex Court in State of Andhra Pradesh v. N. Radhakrishnan, 1998 (4) SCC 154. It is further stated that he has been prejudiced as the documents required for his defence are not traceable and this would be sufficient to set aside the proceedings.

3. On the other hand, the learned counsel for the respondents stated that it is on the representation of the applicant regarding incompetency of the disciplinary authority to issue chargesheet the decision has been taken to furnish him a fresh chargesheet through the competent authority. On delay, it is contended that as the matter involves serious charges of loss of exchequer the matter was under investigation by different investigating authorities and as the original record was not available and as soon as it was available immediately the memorandum has been issued. It is further stated that the proceedings are now at the completion stage and would be over within a period of one month. Placing reliance on the decision of the Apex Court in Union of India v. Upendra Singh, JT 1994 (1) SC 658 it is contended that it does not lie within the jurisdiction of this court to interfere at the interlocutory stage except when there is no misconduct and the chargesheet issued is without jurisdiction. Further, in State of Punjab v. Chaman Lal Goyal, 1995 (2) SCC 570, where the decision in Bani Singh's case (supra) has been considered contended that once the chargesheet has been proceeded against and the enquiry has come to almost completion the same would not be interfered with on account of delay, keeping in view the grave charges. The applicant

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has a right to take up any legal grounds after completion of the enquiry before the appellate authority as well as before the Tribunal.

4. We have carefully considered the rival contentions and perused the material on record. No doubt, the chargesheet has been issued to the applicant on the allegation pertaining to the year 1986 but keeping in view the fact that in pursuance of the chargesheet issued in 2000 the enquiry has been proceeded where the applicant has also participated and the same is at the conclusion stage and keeping in view the misconduct alleged against the applicant it would not be appropriate to interfere with the disciplinary proceedings at an inter-locutory stage. However, in view of the decision in Chaman Lal Goyal's case (supra) we leave open the contentions of the applicant on merits regarding non-availability of the defence documents prayed by him to be furnished and the fact that the respondents have lost all those documents. We are of the view that ends of justice would be duly met if this OA is disposed of by directing the respondents to complete the proceedings within a period of one month from the date of receipt of a copy of this order, subject to participation of the applicant, failing which the enquiry shall be abated. We order accordingly. Liberty is, however, given to the applicant to assail any final order, in accordance with law. No costs.

S. Raju
(Shanker Raju)
Member(J)

M.P. Singh
(M.P. Singh)
Member(A)

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