

Central Administrative Tribunal
Principal Bench

O.A. No. 1782 of 1999

New Delhi, dated this the 24th AUGUST 2000

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Dr. A. Vedavalli, Member (J)

Shri Jag Pravesh Chandra Kaushal,
S/o Shri M.L. Kaushal,
R/o 206, Police Colony,
Hauz Khas,
New Delhi-110016.

.. Applicant

(By Advocate: Shri Shyam Babu)

Versus

1. Lt. Governor,
Govt. of NCT of Delhi,
Raj Niwas,
Delhi-110054.
2. Shri O. Kedia
Enquiry Officer,
Commission for Departmental Enquiries,
Central Vigilance Commission,
Satarkta Bhawan,
Block-A, G.P.O. Complex,
Room No. 210-D,
I.N.A., New Delhi-110023. .. Respondents

(By Advocate: Shri Devesh Singh)

ORDER

Mr. S.R. Adige, VC (A)

Applicant impugns Memo dated 14.5.99
(Annexure A) rejecting his prayer for keeping the
disciplinary proceedings initiated against him vide
Memorandum dated 15.12.98 (Annexure C) in abeyance
till the conclusion of the criminal proceedings
initiated against him vide Charge Sheet dated 26.3.97
(Annexure B). Alternatively it is prayed that the
aforesaid disciplinary proceedings be kept in
abeyance till applicant discloses his defence in the
criminal proceedings.

14

2. Applicant has been charge sheeted under the relevant provisions of the Prevention of Corruption Act vide charge sheet dated 26.3.97 (Annexure B) for the reason that he on 18.2.97 was found in possession of assets disproportionate to his known sources of income to the extent of over Rs.33.51 lakhs. A list of applicant's assets both immovable and movable at the close of check period, on 18.2.97 has been enclosed with the charge sheet.

3. By Memorandum dated 15.12.98 (Annexure C) a disciplinary proceedings has been initiated against applicant under Rule 14 CCS (CCA) Rules, which includes 4 Articles of Charges. The first Article of Charge is that applicant committed gross misconduct in as much as he purchased a residential plot in Dehra Dun in the name of his wife on 1.7.94 for Rs. 70,000/- but failed to give intimation to the competent authority to this effect as required under Rule 78(2) CCS (Conduct) Rules. The second Article of charge is that applicant committed gross misconduct in as much as he obtained a cash gift of Rs.20,000/- from one Shri Narula on 21.4.96 in the name of his daughter Ms. Ritu Kaushal at the time of her marriage in total disregard of the provisions of Rule 13(2) CCS (Conduct) Rules. The third Article of Charge is that applicant committed gross misconduct in as much as he failed to intimate about the purchase of Indira Vikas Patras (IVPs) valued at Rs.95,000/- and thus violated Rule 18(3) CCS (Conduct) Rules. The fourth Article of Charge is

15

that applicant during the relevant period committed gross misconduct in as much as, he invested Rs.14,000/- with M/s Investment Supply Ltd., New Delhi on 13.9.93 and Rs.26,000/- with M/s India Lease Development Ltd., New Delhi on 13.9.93 but failed to furnish intimation of the same to the competent authority as required under Rule 16(2) CCS (Conduct) Rules.

4. Meanwhile applicant has been placed under suspension.

5. We have heard applicant's counsel Shri Shyam Babu and respondents' counsel Shri Devesh Singh.

6. Shri Shyam Babu has invited our attention to the aforesaid charge sheet in the disciplinary proceedings and has stated that each of the assets mentioned in the four Articles of Charge is also mentioned in the list of assets mentioned in the criminal proceeding. It is, therefore, contended that the charge in the criminal case as well as in the D.E. are based on the same set of facts and are closely linked with each other and involve complicated questions of law and fact. It is contended that the Enquiry Officer will not be ~~confining~~ ^{confining} himself to the allegation of not intimating to the department with regard to the acquisition of the assets, but would prove and give a finding in regrd to the acquisition of these assets which would compel applicant to disclose his defence

2

(16)

in the D.E. which would prejudice him in the criminal case. In this connection Shri Shyam Babu stated that it would be applicant's endeavour by way of his defence in the criminal case to satisfy the Court that the assets in question did not belong to him. Reliance in support of his arguments was placed by Shri Shyam Babu on the Hon'ble Supreme Court's rulings in Capt. M. Paul Anthony Vs. Bharat Gold Mines JT 1999 (1) SC 456 and Circular dated 31.8.99 (Annexure 'A') issued by Dy. Commissioner of Police (Vigilance) in the background of Paul Anthony's case (supra).

7. On the other hand respondents' counsel Shri Devesh Singh emphasised that the objective, scope and ambit of a criminal case was different from a departmental proceedings and in the present case the charges were also different. In the present case while ^{the} charge in the criminal proceedings was in respect of possession of assets disproportionate to applicant's known sources of income, the charges in the disciplinary proceedings was not intimating to the concerned authorities of the assets procured/ investments made. It was also contended ^{that the} ~~in~~ defence that the assets did not belong to applicant, ^{and} ~~and~~ would not be available to him.

8. We have considered the matter carefully.

9. We note that applicant has submitted a representation to Respondent No.2 (Commissioner for Departmental Enquiries, Central Vigilance Commission)

17

on 26.7.99 (Annexure F) not to compel him to disclose his defence in the D.e. lest it prejudice him in the criminal proceedings, but applicant himself states in Para 6 of the O.A. that the same has not been disposed of by Respondent No.2.

10. Before we express any view in this matter we consider it fit and proper that in the first instance applicant's aforesaid representation dated 26.7.99 should be disposed of by Respondent No. 2 in accordance with law.

11. Accordingly we dispose of this O.A. at this stage with a direction to Respondent No.2 to dispose of applicant's representation dated 26.7.99 by a detailed, speaking and reasoned order in accordance with law after giving applicant a reasonable opportunity of being heard in person within two months from the date of receipt of a copy of this order. Till the disposal of applicant's aforesaid representation dated 16.7.99 pursuant to this direction, Respondent No.2 should not compel

(18)

applicant to disclose his defence. If after disposal of the aforesaid representation, applicant is still aggrieved, it will be open to him to agitate his grievance in accordance with law, if so advised.

12. The O.A. is disposed of in terms of Paragraph 11 above. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

/GK/

S.R. Adige

(S.R. Adige)
Vice Chairman (A)