

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2517/99

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 7th day of August, 2000

Shri B.S.Bhatia
s/o Shri A.S.Bhatia
r/o B-2, Officers Flats
Central Jail, Tihar
New Delhi. Applicant

(By Mrs. Meera Chhibber, Advocate)

Vs.

1. Union of India through
Lt. Governor
Raj Niwas
Delhi.
2. Chief Secretary
Govt. of N.C.T. of Delhi
5, Sham Nath Marg
Delhi.
3. Inspector General of Police
Now Designated as Additional
Director General (Prisons)
Central Jail Tihar
Delhi. Respondents

(By Shri Rajinder Pandita, Advocate)

O R D E R (Oral)

By Hon'ble Shri Govindan S. Tampi, M(A):

This OA has been filed by Shri B.S.Bhatia seeking to quash the chargesheet dated 29.5.1992 and grant him all consequential benefits and to promote him as Deputy Supdt. Grade-I, by ignoring the chargesheet.

2. The applicant was issued a chargesheet on 29.5.1992 alleging that he had not actually put up release warrant of a detenu on time which resulted in the illegal detention of the prisoner for the period w.e.f. 4.2.1992 to 12.2.1992 in C.J.No.4. The respondents have also issued a charge sheet to Sh.

Harak Bahadur, Head Warder. Common proceedings were originally ordered and an enquiry officer was appointed. After going through the enquiry report and hearing the individual, the disciplinary authority (I.G. of prison) decided to drop the proceedings in the case of HW Harak Bahadur. The departmental enquiry in respect of the applicant in common proceedings with said HW was returned to the I.G. Prison by the Inquiry Officer without issuing a single Notice because the applicant was, in the meanwhile, already promoted as Dy. Supdt.-II a Gazetted rank. Thereafter, nothing has actually transpired though years have gone by. Keeping alive the charge sheet juniors to the applicant have been promoted as Deputy Supdt. Grade-I. The plea of the applicant is that number of years have elapsed no proceedings have been taken by the Department and he has been wrongly denied benefits like promotion by keeping alive the chargesheet. The same calls for redressal, is his plea.

3. Shri Rajinder Pandita, learned counsel appearing on behalf of the respondents states that the action taken by the department is correct and that another inquiry officer has been appointed to deal with the case and the proceedings equally have started.

4. We have given careful consideration to the rival contentions of the learned counsel on either side. It is not in dispute that though the common proceedings were originally framed on the basis of the

same charge it did not proceed. The same is also admitted in the counter (in para 4.16) by the respondents:

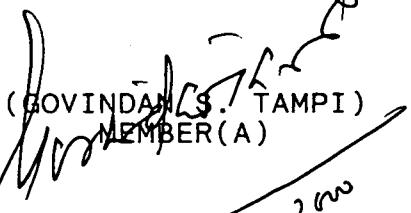
"In reply to para 4.16 of the application, it is submitted that the para is wrong and denied. After personal hearing the Inquiry Officer/Presenting Officer in common proceedings order were appointed vide order dated 21.12.1992. But, it is in fact that the chargesheet in case of HW Harak Bahadur has been dropped by the Competent Disciplinary Authority vide order dated 25.8.1994 and on other hand departmental enquiry in respect of the applicant in common proceedings with said HW was returned to the I.G.Prison by the Inquiry Officer without issuing a single Notice because the applicant was already promoted as Dy. Supdt.-II a Gazetted post."

5. The fact is that thereafter nothing has effectively transpired and the applicant has been made to wait indefinitely. We are not going into the merits of the disciplinary proceedings but the fact is that nothing at all has taken place. It is also a matter of record that the applicant was promoted as Deputy Supdt. - II, in 1993 when the chargesheet was pending. Once a charge sheet has been issued, promotions are not generally ordered and the DPC proceedings were kept into a sealed cover. However, as the same has not taken place in the instant case and the respondents had given promotion to the applicant inspite of the chargesheet/disciplinary proceedings, it has to be correctly presumed taht the Department had not considered ^{the charge to be} serious enough to deny his promotion.

6. We are therefore led to the conclusion that unexplained delay by the Department would come to the help of the applicant. The Hon'ble Apex Court in the case of State of A.P. Vs. N.Radhakishan, 1998(4) SCC 154 has clearly directed that unexplained delay in conclusion of the proceedings itself is an indication

of prejudice caused to the employee. Following the said decision, the Principal Bench of this Tribunal had decided in the same applicant's case in the OA No.1990/99 that the proceedings be deemed to have been quashed. Following the above, we hold this to be a case where the applicant gets the benefit purely on account of the unexplained and unreasonable delay caused by the administration.

7. In view of the above discussion, the impugned orders are quashed. The application is allowed with all consequential benefits and Rs.2000/- (Rupees Two Thousand Only) towards cost.


(GOVINDAN S. TAMPI)
MEMBER(A)

1.8.2003


(V.RAJAGOPALA REDDY)
VICE CHAIRMAN(J)