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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-730/99

New Delhi this the 15th day of September, 1999.

Hon'ble Sh. S.P. Biswas, Member(A)

Shri B.P. Saxena,
R/o Flat No. 721,
Sector-3, Pocket-B-19,
Sabji Market,
Near Mother Dairy,
Rohini, Delhi. Applicant

(through Mrs. Rani Chhabra, Advocate)

versus

1. Union of India through
its Secretary,
Ministry of Communication,
Dept. of Telecommunication,
Sanchar Bhawan,
New Delhi.
2. Chief General Manager, Telecom,
Dept. of Telecommunications,
Jaipur.
3. Telecom District Manager,
Dept. of Telecommunications,
Bharatpur(Rajasthan).
4. Chief Accounts Officer,
O/o Telecom District Manager,
Dept. of Telecommunications,
Bharatpur(Rajasthan).
5. Accounts Officer,
O/o General Manager Telecom,
Rajasthan Division,
Jaipur. Respondents

(through Sh. R.P. Aggarwal, Advocate)

ORDER

The applicant herein is aggrieved by the
alleged arbitrary and unjustified action on the part
of the respondents in not releasing the retiral
benefits (PF, Leave Encashment and Gratuity etc.)
after his retirement on 31.1.96. The applicant has
assailed respondents action on the grounds that the

latter has not completed the disciplinary proceedings against the applicant even after the passage of approximately 10 years since its initiation. As per applicant, the chargesheet was issued on 04.04.89 and he had given the detailed reply to the said charges on 16.8.91. The Enquiry Officer was appointed and the applicant participated in the enquiry proceedings which never got concluded. Even after the passage of almost five years after initial setting, the applicant did not hear anything about the proceedings nor any information has been given to him for expeditious disposal of the disciplinary proceedings initiated against him. Because of the delay the applicant has been forced to approach this Tribunal by filing this O.A. in an attempt to get the retiral benefits. The applicant would argue that he cannot be forced to suffer because of the lapses of the respondents and he ought to have been given all financial benefits by this time. In support of her contention, the learned counsel cited the judicial pronouncement in the case of Chief Secretary to Govt. of A.P., Hyderabad Vs. R. Veerabhadram (1992 Supp.(2)SCC 486). That was the case where the A.P. Administrative Tribunal took the view that the proceedings were so long drawn out that the inference became inescapable that the disciplinary authority was not diligent in pursuing the matter and that in the circumstances of the case, it would be wholly unreasonable to have permitted the charges arising out of certain act and omissions to pursue after the ^{of Commission} lapse.

lapse of over a decade. The learned counsel would argue that the same situation prevails here inasmuch as almost 10 years have passed since the chargememo was issued and yet there is no sign of the proceedings coming to an end.

2. The respondents have opposed the claims. It is submitted that the applicant while on deputation with the Railway Electrification was issued with a chargesheet under Rule 14 of the CCS(CCA) Rules, 1965 for falsification of Government record and misappropriation of Govt. store items. The applicant also remained unauthorisedly absent from 16.5.89 to 30.6.92 and this resulted ~~in~~ ⁱⁿ delays in completion of the enquiry proceedings. The respondents would also submit that the applicant has since been sanctioned provisional pension in terms of rules and the other retiral benefits would be paid to him on finalisation of the proceedings.

3. Heard the learned counsel for the parties and perused the records.

4. The issue that falls for determination in such a case is whether in the facts and circumstances of the case the inaction/delays on the part of the Disciplinary Authority in pursuing the enquiry could be held legally sustainable. The applicant's case is that the delay alone has caused the prejudice in terms of settlement of the retiral benefits. I find

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that each such case needs to be decided upon its own facts. Normally, departmental enquiry should be allowed to take its own course as per relevant rules. Delay defeats justice unless the applicant himself is to blame. Where delay alone could be the basis of abating the proceedings would depend upon the facts and circumstances of the individual case. See Secretary to Govt., Prohibition and Excise Deptt. Vs. L. Srinivasan (1996(1) ATJ617). It is seen herein that the respondents only plea for the delay is that the applicant was absent for more than two years. This can hardly be the ground for delayed finalisation of the proceedings since nothing prohibited the respondents to conclude the enquiry ex-parte as per rules and regulations on the subject. It is also seen that the last notice for the purpose of holding the enquiry was issued in January 1997 and even then there is no progress in the matter.

5. In the facts and circumstances of the case, we find some force in the contention of the learned counsel for the applicant that the undue delay in pursuing the finalisation of the case has adversely affected the applicant's relief in terms of receipt of pensionary benefits. The respondents appear to have changed the enquiry officers several times and having not finalised the case in terms of the *lump* *lump*.

time frame provided in dealing with such disciplinary cases.

6. In view of the details as aforesaid, the O.A. is allowed with the following directions:-

(a) The respondents are directed to finalise the proceedings within a period of six months from the date of receipt of a copy of this order.

(b) The proceedings shall stand abated in case the same is not concluded within a period of six months as aforesaid from the date of receipt of a copy of this order and the respondents shall pay the applicant all the dues ^{after the aforesaid time limit} ~~and~~ admissible as per rules.

(c) No costs.


(S.P. Biswas)
Member(A)

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