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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

O.A. No. 1529 of 1998 decided on 29th 6. 1999

Name of Applicant : Dr. Vijay Kumar Kachroo

By Advocate : Shri A.K. Mishra

Versus

The Lt. Governor, Govt. of NCT Delhi & others

By Advocate : Shri Vijay Pandita

Corum:

Hon'ble Mr. Justice V. Rajagopala Reddy, V.C. (J)
Hon'ble Mr. N. Sahu, Member (Admnv)

1. To be referred to the reporter - Yes/No
2. Whether to be circulated to the other Benches of the Tribunal. - Yes/No

N. Sahu
(N. Sahu)
Member (Admnv)

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1529 of 1998

New Delhi, this the 29th day of June, 1998

HON'BLE MR.JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN(J)
HON'BLE SHRI N.SAHU, MEMBER(A)

Dr. Vijay Kumar Kachroo,
Retired Principal,
Institute of Commercial Practices,
Madhuban, Shakarpur, Delhi.
Presently r/o 19-A, Arjun Nagar,
New Delhi-110029.

....Applicant

(By Advocate: Shri A.K.Mishra)

Versus

1. The Lieutenant Governor,
through Secretary,
Govt. of National Capital Territory of Delhi,
Raj Niwas, Delhi.
2. The Chief Secretary,
Govt. of National Capital Territory of Delhi,
5, Sham Nath Marg, Delhi
3. The Director of Training & Technical Education,
C-Block, Vikas Sadan,
Indra Prastha Estate, New Delhi.
4. The Director of Vigilance,
Govt. of National Capital Territory of Delhi,
Old Secretariat, Delhi.
5. The Director,
Central Vigilance Commission,
Bikaner House, Pandara Road,
New Delhi.
6. Smt. Achla Singh,
Joint Director(Industries), Inquiry Authority,
Govt. of National Capital Territory of Delhi,
C.P.O. Building, Kasmere Gate, Delhi.
7. Shri K.B.Shukla,
Retired Director of Training & Technical Education,
Govt. of National Capital Territory of Delhi,
Presently residing at C-223, Madhuban,
Patparganj Road, Delhi.Respondents

(By Advocate: Shri Vijay Pandita)

ORDER

By Hon'ble Shri N.Sahu, Member(A)

This O.A. seeks the quashing of the memo
dated 1.11.95 (Annexure A-3) with Articles of charges and

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the orders dated 26.3.98 appointing an Inquiry Authority. The applicant also prays for a direction for release of retiral benefits like regular pension, commutation, gratuity and salary for the period from December, 1993 to May, 1994.

2. The undisputed facts are that an enquiry under Rule 14 of the CCS (CCA) Rules has been initiated against the applicant, who functioned as a Principal, Commercial and Secretarial Institute, ICP Complex, Shakarpur, Delhi by the impugned memo date 1.11.95 levelling the following charges.

"(a) absented himself from duty without any prior apporval/intimation to the competent authority since July, 1993 to date of his retirement i.e. 31st May, 1994;

(b) failed to hand over proper charge of his seat to his successor and thereby the items including library books and other items issued by the Office are still outstanding in his name; and

(c) has not submitted account of fees collected from the candidates sponsored by the Employment Exchange and other Government Deptts./Agencies for Shorthand/Typewriting tests held prior to his posting at the Directorate's Headquarters. Govt. dues @ Rs.5/- per candidate in respect of these tests, have also yet to be paid into the Govt. Accounts. The less to ex-checker due to non-handing over of library books, store items and fee collected from candidates works out to the tune of Rs.1,62,000/-."

The applicant was only paid provisional pension because of this disciplinary action. At para 4.13 and 4.14 of the counter, it is stated as under:-

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"The dues of the applicant could not be paid as there were some recoveries to be made from the applicant on account of

non-clearance of charge of Library book, Income Tax etc. The total recoveries amount to about Rs.40,000/-."

3. The applicant was issued a chargesheet on 1.11.95 after obtaining Presidential sanction under Rule 9 of CCS(Pension) Rules, 1972. He denied the charges. The Enquiry Officer was appointed by an order dated 26.3.96. It is contended on behalf of the respondents that the applicant is free to make submissions before the inquiring authority.

4. The claim of the applicant is that the stated allegations do not constitute misconduct and cannot form the subject matter of an enquiry under Rule 14 of CCS(CCA) Rules. It is further stated that the alleged recoveries would not be justifiable ground for initiating disciplinary proceedings. It is submitted that 73 books against the 157 books alleged, have been returned by the applicant. According to the applicant, the books were borrowed by the higher authorities and were not returned in time. If the recoveries amounted only to 40,000/-, this would not amount to a misconduct and would not justify withholding regular pension and other payments like gratuity, salary and allowances from December, 93 to May, 94.

5. The crux of the applicant's grievance is that he retired with effect from 1.6.94 when no disciplinary proceedings were pending against him. The chargesheet was issued on 1.11.95. The applicant submitted his written statement of defence on 17.12.95 and inquiring

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authority and presenting officer were appointed on 18.5.98. Thus there is a delay of 2-1/2 years in appointing the Enquiry Officer.

6. We have carefully considered the Supreme Court decision in the case of State of Andhra Pradesh vs. N.Radhakishan - 1998(1) S.C. 630. In that case, the Supreme Court held that the delinquent employee has a right of speedy trial. Disciplinary proceedings against him are to be concluded expeditiously. He should not be made to undergo mental agony and monetary loss without any fault on his part in delaying the proceedings because delay causes prejudice to the charged officer. In this case before us, the applicant cannot be blamed for delay. We also notice that there is no proper explanation for delay in conducting the disciplinary proceedings. That apart, we also do not think that the allegations are such that they required any elaborate and time-consuming investigations, as in Chiman Lal Goyal's case, 1995 (2) SCC 570 or in the case of a huge embezzlement of Rs.7.82 crores in K.Muniappan's case, (1997) 4 SCC 255.

7. We have carefully examined the Articles of Charge. One of the charges is that the applicant absented himself from duty without prior intimation since July, 1993 to the date of his retirement. He did not return certain library books, video cassettes, B.P. Apparatus to his successor and failed to submit the fee collected from students sponsored by Employment Exchange. The competent authority could have initiated disciplinary proceedings in July, 1993 itself if he was satisfied that the applicant absented wilfully. Directing the applicant

to rendition accounts about fee collected is a matter that could have been looked into contemporaneously. The only charge on which some seriousness can be shown is the charge that the applicant absented himself from duty. Even here, his explanation could have been called for and action taken well before his retirement. Even so, in setting aside the proceedings merely on the ground of delay, we have to move very cautiously. Because of the negligence of the disciplinary authority, the culpability of an official, if it were established to be true, should not go unpunished. That apart, as laid down by the Hon'ble Supreme Court, a court can interfere at the chargesheet stage only if inference of misconduct cannot be shown from the charges and the supporting particulars or if the charges are contrary to law - Govt. of Tamil Nadu vs. K.N.Ramamurthy, (1997) 7 SCC 101. Since we do not know the full facts and since the matter is under inquiry, we cannot express an opinion on the merits of the charges. At this stage, it would be improper for this Tribunal to sit in judgement on the merits of the charges in the disciplinary proceedings. We are, however, of the view that the applicant had been denied speedy trial by the delay of 2-1/2 years in appointing the Enquiry Officer.

8. In the circumstances, we direct the respondents to conclude the disciplinary proceedings within a period of four months from the date of receipt of a copy of this order. If eventually the applicant stands exonerated of all the charges, he shall be paid interest at the rate of 12% per annum on all the retiral benefits that are eventually found to be payable to him,

(Signature)

till the date of payment. Even if the disciplinary authority arrives at a conclusion that this is a case of recovery and not misconduct, even then interest at 12% per annum shall be payable from the date of retirement to the date of payment on the net amount of retirement dues found payable to the applicant after adjustment. The interest is payable because the applicant cannot be blamed for the ~~delay~~ ^{as} and the respondents have not offered a proper explanation for the delay. If the disciplinary proceedings are not concluded within a period of four months from the date of receipt of a copy of this order, the said proceedings shall abate and the applicant shall be deemed to be discharged of all the allegations and charges. In giving this direction, we have kept in view the principles laid down by the Hon'ble Supreme Court in Radhakrishnan's case, cited above.

9. The O.A. is disposed of as above. No costs.

Karanam
(N. SAHU) 29.6.89
MEMBER(A)

Andrapuram
(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

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