

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA No. 681/98

New Delhi, this the 21<sup>st</sup> day of August, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)  
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

Shri R S Saroj  
s/o Shri Diwan Lal  
r/o H.No. 1, Road No. 9,  
Punjabi Bagh Extn.,  
New Delhi.

...Applicant

(By Advocate: Shri S.K. Sawhney)

Vs.

Union of India through

The General Manager,  
Northern Railway,  
Baroda Housee,  
New Delhi.

... Respondents

(By Advocate: Shri R.L. Dhawan)

ORDER

Hon'ble Shri T.N. Bhat, Member (J)

The applicant in this O.A. is a retired Senior Civil Engineer (Construction) who while working in the Northern Railways was served with a chargesheet on 15.6.1990, as at Annexure A-2. He has come to the Tribunal aggrieved by the inaction on the part of the respondents to complete the enquiry despite the lapse of nearly 8 years after the service of the aforesaid chargesheet. According to the applicant the delay in

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finalising the disciplinary proceedings itself renders the proceedings liable to be quashed. He accordingly prays for the following reliefs:-

- i) Direct the respondents to complete the inquiry within the period prescribed in the Railway Board letter Annexure A1.
- ii) Direct the respondents to release the commutation of pension and DCRG of the applicant as the delay in processing the inquiry was due to culpable negligence of the respondents.
- iii) Direct the respondents to pay interest @ 18% p.a. for the delayed payment of retiral benefits".

2. It is averred by the applicant that despite the lapse of so many years even the preliminary steps for holding the inquiry have not been completed. It needs to be stated here that the chargesheet was served upon the applicant only 15 days before the date of his retirement on superannuation.

3. The respondents have resisted the applicant's O.A. on the ground that no time limit for finalisation of disciplinary proceedings has been

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prescribed in Railway Servants. (Discipline & Appeal ) Rules, 1968 and that the Railway Board's instructions dated 16.3.1997 (Annexure A-1) only contains guidelines for processing of disciplinary cases at various stages. It is further averred that the Enquiry Officer has already been appointed and his report / findings are awaited.

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4. As regards the applicant's prayer for grant of pensionary benefits the respondents have averred that only provisional pension is admissible under Rule 10 of the Railway Services (Pension) Rules during the pendency of the departmental proceedings but no gratuity can be paid till the conclusion of the said proceedings. Similarly commutation of pension is also not permissible during the pendency of the proceedings. While admitting that the Enquiry Officer has been changed the respondents have taken the plea that this was done due to administrative reasons. It is also admitted that there was a corrigendum to the memo of charges issued by the respondents. The respondents have further taken the plea that disciplinary proceedings cannot be closed or quashed merely on the ground of delay in its finalisation.

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5. To the counter of the respondents a rejoinder has been filed by the applicant in which he has reiterated the contentions raised in the O.A.

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6. We have heard the learned counsel for the parties at length and have perused the material on record.

7. It may be stated at the very outset that the respondents do not seem to have proceeded in a manner which can only be termed as inappropriate so far as expeditious finalisation of the disciplinary proceedings is concerned. The Enquiry Officer also appears to have proceeded on a leisurely pace. It also appears to us that the necessary cooperation is not being extended to the Enquiry Officer by the departmental authorities. A perusal of the minutes of the last date fixed in the disciplinary proceedings reveals that on 11.8.1998 the Enquiry Officer recorded the details of the efforts made by him to get some documents placed on record and to furnish the copies of the same to the applicant. It appears that the documents could not be made available despite the best efforts of the Enquiry Officer, with the result that no progress could be made in the enquiry. Although the learned counsel for the respondents has cited this as an instance for the purpose of showing that the applicant was not cooperating in the enquiry proceedings, we find that the contrary is the case. All that the aforesaid minutes of the proceedings dated 11.8.1998 show is that the applicant had expressed his unwillingness to proceed with the enquiry unless the Enquiry Officer communicates to him in writing the fact that the documents could not be made available by the concerned department.

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The Enquiry Officer had suggested to the General Manager, Northern Railways that he could either make available the T.C. minutes under reference or issue a corrigendum deleting this item from the list of documents relied upon. He accordingly informed the applicant, but the applicant wanted that this fact should be communicated to him in writing. We do not agree with the learned counsel for the respondents that the applicant thereby showed his unwillingness to cooperate in the disciplinary enquiry.

8. However, aforementioned facts would not, in our considered view, be a sufficient ground for quashing the disciplinary proceedings on the chargesheet issued in the year 1990. The Apex Court has in its judgement in Deputy Registrar, Cooperative Societies Faizabad vs. Sachindra Nath Pandey & Ors., reported in JT 1995 (2) SC 407, held that mere delay would not be sufficient for closing disciplinary proceedings, especially so when the charges are very serious. In that case there was a delay of 16 years in finalising the disciplinary proceedings. Similarly in Union of India vs. Upender Singh, reported in JT 1994 (1) SC 658, the Apex Court held that the Tribunal should not interfere at an interlocutory stage unless the charges framed read with imputations or particulars of the charges do not disclose any misconduct or irregularity. The instant case is not one where on the charges framed against the applicant it can be said that no misconduct is made out. Again, in State of Punjab &

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Ors vs. Chaman Lal Goyal, reported in 1995 (2) SLJ 126, it was held by the Hon'ble Supreme Court that although disciplinary action should not be delayed, mere delay would not afford a sufficient ground for quashing the proceedings.

9. In view of the above, we are not inclined to agree with the learned counsel ~~counsel~~ for the applicant that the disciplinary proceedings or the chargesheet should be quashed ~~merely~~ on the ground of delay.

10. However, we are convinced that this is a fit case where time bound direction should be given to the respondents to complete the enquiry. In view of the delay that has already taken place and also considering the nature of the charges etc. a period of four months should, in our view, be sufficient to enable the respondents to finalise the proceedings.

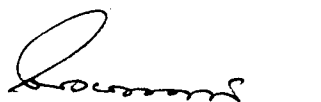
11. In the event, this O.A. is partly allowed and the respondents are directed to proceed with the enquiry, preferably on a day to day basis, and to finalise the same within a period of four months from the date of receipt of a copy of this order.

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12. With this order the O.A. is disposed of,  
leaving the parties to bear their own costs.



(S.P. Biswas)  
Member (A)

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(T.N. Bhat)  
Member (J)

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