

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A.No.1007/98

New Delhi, this the 26th day of July, 1999

HON'BLE MR.JUSTICE D.N.BARUAH, VICE CHAIRMAN(J)
HON'BLE MR.N.SAHU, MEMBER(ADMNV)

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C.L.Sethi,
S/o Shri R.D.Sethi
aged about 59 years,
R/o 1A, Bholanath Nagar,
Delhi-110032.

....Applicant

(By Advocate: Shri A.K.Behra)

Versus

1.Lt.Governor,
National Capital Territory of Delhi,
Raj Niwas,
Delhi-110007

2.The Chief Secretary,
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi-110054

3.Shri S.L.Bansal,
Enquiry Officer and Managing Director,
Delhi State Civil Supplies Corporation Ltd.,
Aapurti Bhawan,
7-9, Aram Bagh,
New Delhi-110005.

....Respondents

(By Advocate: Sh.B.S.Gupta, through proxy counsel Sh.S.K.Gupta)

O R D E R (ORAL)

BY BARUAH, J.-

The applicant was the Assistant Director in the Directorate of Industries under Delhi Administration. On 16.10.92, an Article of Charge along with the statement of imputation was served on the applicant asking him to show cause why the disciplinary action should not be taken

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against him. The applicant replied to the same denying the charge. The disciplinary authority, however, decided to hold an enquiry to go into the charge. Accordingly, an enquiry officer was appointed on 30.7.93. From 1993 to 1998, no action was taken by the enquiry officer. Only in 1998, a notice was issued to the applicant to appear before him. Thereafter the applicant approached before this Tribunal. In the meanwhile, on 31.12.97, he retired from service on attaining the age of superannuation.

2. The applicant has filed this O.A. for inordinate delay in completing the disciplinary proceedings. As he retired on superannuation in the meantime, because of pendency of disciplinary proceedings, he has not been given the retirement benefits. The respondents have filed written statement. We have heard both the sides.

3. Shri Behra, learned counsel for the applicant submits that the subject matter of the disciplinary proceedings relates back to the year 1985. The authority took seven years to decide whether disciplinary proceedings should be initiated or not. Thereafter another five years was taken for issuing him the notice by the enquiry officer. The law in this regard is well settled. The Supreme Court in the case of State of Andhra Pradesh vs. N. Radhakishan, reported in 1998(4) SCC 154 held as follows:-

"The essence of the matter is that the court has to take into consideration all the relevant factors and to balance and

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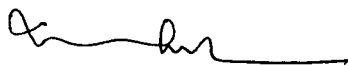
weigh them to determine if it is in the interest of clean and honest administration that the disciplinary proceedings should be allowed to terminate after delay particularly when the delay is abnormal and there is no explanation for the delay. The delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his part in delaying the proceedings. In considering whether the delay has vitiated the disciplinary proceedings the court has to consider the nature of charge, its complexity and on what account the delay has occurred. If the delay is unexplained prejudice to the delinquent employee is writ large on the face of it. It could also be seen as to how much the disciplinary authority is serious in pursuing the charges against its employee. It is the basic principle of administrative justice that an officer entrusted with a particular job has to perform his duties honestly, efficiently and in accordance with the rules. If he deviates from this path he is to suffer a penalty prescribed. Normally, disciplinary proceedings should be allowed to take their course as per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the court is to balance these two diverse considerations."

4. In this case the respondents have not offered any explanation for the delay. It is also not the case of the respondents that the applicant tried to delay the disciplinary proceedings. We feel it is sad state of



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affairs that such a long time has been taken to conclude the disciplinary proceedings. The applicant already stands retired and at this age, he needs money to meet the various expenditures like education to the children, marriage of daughters and at this point of time he needs financial assistance, pension and other benefits are the only way to meet those requirements. This has been denied for no reason whatsoever. Therefore, following the decision of the Supreme Court in Radhakishan's case (supra), we quash the disciplinary proceedings. The applicant shall be given all the retiral benefits together with the interest at the rate of 15% per annum from the date of two months after the retirement of the applicant i.e. 1.3.98 till the date of payment, within a period of three months from the date of receipt of a copy of this order. No costs.



(N. Sahu)
Member(Admnv)



(D.N. Baruah)
Vice Chairman(J)

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