

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

R.A. NO. 230/1995
with
M.A. NOs. 2188, 2189/95
in
D.A. NO. 420/1994

(17)

New Delhi this the 1st day of January 1996.

HON'BLE SHRI N. V. KRISHNAN, ACTING CHAIRMAN
HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)

P. N. Kapoor

... Applicant

-Versus-

Union of India & Ors.

... Respondents

(By Shri R. L. Dhawan, Advocate)

OR D E R (By Circulation)

Shri N. V. Krishnan, Acting Chairman —

D.A. 420/1994 was disposed of on 10.7.1995 with certain directions to the respondents as follows :-

"7. Accordingly, we dispose of this OA with a direction to the respondents to pass final orders in both the proceedings within six weeks from the date of service of this order on the first respondent, which shall be done through special messenger. In case the orders are not passed within the stipulated time limit, the disciplinary proceedings shall stand automatically dropped and in that event, the respondents shall pay to the applicant all the dues pending, alongwith interest @ 12% from the date they became due. In case the final order is passed in time, it is open to the respondents to pass suitable orders in respect of DCRG and commutation of pension in accordance with law."

2. This review application has been filed by the original respondents (hereinafter referred to as the respondents) for a review of the above order along with an M.A. for staying the operation of the judgment and another M.A. for linking the review application with the original records at the time of hearing.

(J)

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3. We have perused the review application and we are satisfied that it can be disposed of by circulation. We proceed to do so.

4. The following grounds have been urged by the respondents :-

- (1) That on 10.7.1995 when the O.A. was disposed of it could not be brought to our notice despite exercise of due diligence that the UPSC had to be consulted before any final orders are passed in the disciplinary proceedings. It is submitted that the UPSC has stated in some other case that the process of consultation takes five to six months. It is further stated that the learned counsel for the respondents had asked for six months from the date of disposal of the O.A.; such additional time has been given in other cases as evidenced by the Annexure-2 and Annexure-3 filed with the review application.
- (2) That the UPSC has not been impleaded as a respondent and, therefore, no direction could be issued to that Commission fixing time limit for discharging their constitutional function.
- (3) That there is an error when we held that the rules of the department are also very clear that such cases should be disposed of expeditiously.
- (4) That our direction regarding dropping of the disciplinary proceedings automatically is contrary to law as held by the Supreme Court in the Deputy Registrar, Co-operative Societies, Faizabad vs. Sachindra Nath Pandey & Ors., 1995 (1) SLJ SC 367.

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5. We have carefully considered the matter. In view of the various observations made in the C.A., it is clear that the respondents have been totally negligent in completing the disciplinary proceedings within reasonable time, particularly when the applicant had given his representation on the enquiry officer's report on 18.7.1991 and 25.12.1992. We cannot understand the pendency of two disciplinary proceedings in respect of a retired person for such a long time. This casts a serious reflection on the efficiency of the respondents to expedite such cases as well as their lack of understanding of the problems of retired employees. We, therefore, felt that the delay was unjustified and hence a ~~peremptory~~ time limit was fixed for final disposal failing which we directed that the disciplinary proceedings should stand dropped.

6. We do not see any merit in the grounds now preferred by the respondents. We have referred to the various occasions when the respondents could have finally decided the D.E. The respondents did not even produce any record to explain the delay after the applicant filed his representations on 18.7.1991 and 25.12.1992. This is a matter where the Railway Board should make an investigation as to how the delay has occurred and take action against the persons responsible for this delay.

7. We have seen the judgment of the Supreme Court referred to in the review application. The facts therein are entirely different. That was a case where an FIR was lodged against the 1st respondent for criminal breach of trust in November, 1976 and on 13.12.1976 he was placed under suspension pending enquiry into the charges. Enquiry officer was

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appointed and despite the efforts of the 1st respondent to delay the proceedings, he was dismissed from service on 20.4.1978 by the Deputy Registrar, Co-operative Societies. The 1st respondent filed a departmental appeal which was dismissed on merits. He also filed a writ petition before the High Court which was allowed on 15.1.1992 on the only ground that a copy of the enquiry officer's report was not given to the delinquent. This was based on the judgment of the Supreme Court in Md. Ramzan Khan's case. In appeal, that order of the High Court was set aside and the Supreme Court remitted the matter for considering other grounds. The writ petition was again allowed on 7.12.1993 on the ground that the enquiry officer ought to have held an enquiry by recording the statements of witnesses and sending his report to the disciplinary authority even if the 1st respondent failed to cooperate. An appeal was filed before the Supreme Court against this order in which it was pleaded on behalf of the 1st respondent that the proceedings were initiated as far back as in 1978. It is noticed that the Supreme Court made the following observations :-

"7. On a perusal of charges we find that the charges are very serious. We are, therefore, not inclined to close the matter only on the ground that about 16 years have elapsed since the date of commencement of disciplinary proceedings, more particularly when the appellant alone cannot be held responsible for this delay...."

8. These are not the facts in the present case. In the present case it is the respondents alone who are to be blamed for the inordinate delay. We, therefore, see no merit in the review application. Accordingly, it is dismissed as also the M.A.s.

/as/

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)

N. V. Krishnan
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(N. V. Krishnan)
Acting Chairman