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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No.2171/1997

New Delhi: this the 28<sup>th</sup> day of February 2001.

HON'BLE MR.S.R.ADIGE VICE CHAIRMAN (A)

HON'BLE DR.A.VEDAVALLI, MEMBER (J)

Gurcharanjit Singh,  
19, Surya Niketan,

New Delhi-92

.....Applicant

(Applicant in person)

Versus

1. Union of India,  
through the Secretary,  
Ministry of Railways,  
Rail Bhawan,  
New Delhi-1

2. Railway Board,  
through  
Deputy Secretary (E) II,  
Rail Bhawan,  
New Delhi-1

.....Respondents

(By Advocate: Shri R.L.Dhawan)

ORDER

S.R.Adige, VC (A):

Applicant impugns the charge sheet dated 4.9.92 (Annexure-A1), the Inquiry Officer's report (Annexure-A2); the disciplinary authority's order dated 12/13.7.95 (Annexure-A3); and the appellate authority's order dated 5.3.97. He seeks arrears of pay and promotion.

2. Applicant was charged sheet vide Memo dated 4.9.92 on 4 Articles of charge relating to serious irregularities said to have been committed by him while processing tenders which he had invited for certain works in DCW Complex Patiala during 1983-84 when he was working as CE DCW.

3. The Inquiry Officer in his report (Annexure-A2) held two of the 4 charges as proved.

4. Applicant was served a copy of the Inquiry Officer's findings to which he submitted a representation.

5. After considering the same and after giving applicant a personal hearing on 26.6.95, the Railway Board, agreeing with the Inquiry Officer's findings, by impugned order dated 12/13.7.95 imposed the penalty of reduction in pay from Rs. 6700 p.m. to Rs. 5900/- p.m. in scale of Rs. 5900-6700 with cumulative effect from the date of service of the order till applicant's retirement on 30.6.97.

6. Applicant submitted an appeal on 8.8.95 (Annexure-B).

7. Meanwhile he superannuated on 30.6.97.

8. The appellate authority after obtaining UPSC's advice contained in their letter dated 13.11.96 (annexed with Annexure-A4), rejected applicant's appeal vide order dated 5.3.97 (Annexure-A4) for the detailed reasons contained in UPSC's aforesaid letter, upon which applicant filed the present OA.

9. We have heard applicant who argued his case in person and Shri Dhawan for respondents.

10. The first ground taken is that there was inordinate and unexplained delay in initiating disciplinary proceedings, but delay by itself is not sufficient ground to quash the disciplinary proceedings. Indeed in Secretary to Govt., Prohibition & Excise Dep'tt. Vs. L. Srinivasan 1996(1) ATJ 617, the Hon'ble Supreme Court came down heavily on the Tribunal in quashing the departmental enquiry on grounds of delay, holding that it had committed the gravest error in exercise of its judicial review. In the facts and circumstances of this case, and in the light of the above discussion, this ground is rejected.

11. The next ground taken is that there was reduction in cost as a result of action taken by applicant. The charges against applicant which were proved during enquiry were (i) introduction of a new clause in the tender documents after opening of tender and before execution of

contract agreement, with malafide intention to provide pecuniary gains to the contractors and (ii) he caused tampering of tender documents. In the light of these two charges which were proved, which violated the sanctity of the tendering process to benefit some tenderers and not others, the plea of reduction in cost is unacceptable. Hence this ground also fails.

12. The next ground taken is that applicant's actions were prompted to remove uncertainty in the job requirement and to bring the tender specification at par with Indian Standard Specification. The reason for rejection of the second ground, covers this ground also.

13. It has next been urged that applicant's actions were within his competence. This ground is also rejected for the reasons given in para 11 above.

14. It has next been urged that the charge of violation of Engineering Code was not found by the Enquiry Officer, but this assertion is patently incorrect in the light of IO's findings. We have also perused the relevant records and find that the same cannot be faulted.

15. The next grounds taken by applicant namely that respondents' action was arbitrary and malafide; that the PWs were not able to recall the turn of events; that the evidence was uncertain, that key witnesses were not produced; that the entire exercise was an eye-wash; and that applicant was condemned on the basis of whims and caprice have no basis in the background of the detailed findings of the EO; which have been exhaustively analysed by the UPSC.

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16. The OA warrants no interference. It is dismissed. No costs.

A. Vedavalli

( DR. A. VEDAVALLI )  
MEMBER (J)

S. R. Adige  
( S. R. ADIGE )  
VICE CHAIRMAN (A)

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