

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.1636/94

New Delhi this the 8th Day of November, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman(J)
Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Shri B.S. Kasana,
Dy.Suptd.(Retd.),
Dte. of Social Welfare
Govt. of NCT of Delhi,
R/o Vill. Sakkalpura, Post Chirori,
District Ghaziabad(U.P.). Applicant

(through Sh. A.K. Bhardwaj, counsel)
versus

1. Chief Secretary/Chief Vigilance
Officer,
Govt. of NCT of Delhi,
5 - Sham Nath Marg,
Delhi-54.
2. Director,
Social Welfare,
Govt. of NCT of Delhi,
Curzon Road,
New Delhi.
3. Central Vigilance Commission,
through its Secretary,
Bikaner House, New Delhi. Respondents

(through Sh. Girish Kathpalia, counsel)

ORDER(ORAL)

Delivered by Hon'ble Mr. Justice S.K. Dhaon,
Vice-Chairman

A counter-affidavit has been filed in the Registry as stated by the learned counsel for the respondents. The original is not before us. However, we have obtained a copy of the said affidavit from the learned counsel for the respondents and we are basing this order on the basis of averments made in that affidavit.

The material averments are: Since an investigation in a criminal case involving the applicant was going on, he was suspended from service on 9.2.1989. The investigating agency reported that it was not fit case to prosecute the applicant in a

84

regular court of law, the proper course was to proceed with departmental proceedings against him. Therefore, vide memorandum dated 16.7.1993, a charge memo was given to the applicant in accordance with Rule 14 of C.C.S.(CCA) Rules, 1965. On 15.6.1993, the order of suspension was revoked. The applicant retired from service on 31.7.1993. No enquiry officer has been appointed so far, as the matter is pending before the Central Vigilance Commission for recommending a proper person to act as Commissioner in the departmental enquiry. Provisional pension is being paid to the applicant.

The applicant has made a grievance that his pensionary benefits are being withheld on account of the pendency of the departmental enquiry against him. The complaint is that the proceedings have been initiated on 16.7.1993 and so far an enquiry officer having not been appointed, the applicant is being unnecessarily harassed and is not being paid his full pensionary benefits.

We have heard the learned counsel for the parties. Although the O.A. has not been admitted formally, we are disposing of the same finally with their consent.

Sh. Girish Kathpalia states that he also represents the Respondent No.3 i.e. Central Vigilance Commission. We have a feeling that the Respondent No.3 has been lethargic in not acting

Sy

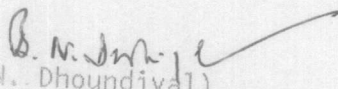
promptly in so far as it has failed to nominate a Commissioner of enquiry. Therefore, a case has been made out for the issue a positive direction. We direct the Central Vigilance Commission(the Respondent No.3) to nominate a Commissioner of enquiry within a period of one month from today. This order need not be communicated to the Commission as it is being passed in open court in the presence of its counsel.

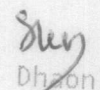
The respondents shall speedily dispose of the departmental proceedings pending against the applicant after the appointment of a Commissioner of enquiry. The enquiry shall be completed expeditiously preferably within a period of six months from the date of the appointment of Commissioner of enquiry.

We make it clear that we are not interfering in any manner with the discretion of the Central Vigilance Commission to come to the conclusion that no further enquiry against the applicant is called for.

With these directions, the O.A. is disposed of finally.

No costs.


(B.N. Dhoundiyal)
Member(A)


(S.K. Dhazon)
Vice-Chairman(J)