

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.2026/94

New Delhi: May 12th, 1995.

Shri M.S.Bhatnagar,
Inspector Grade II (Retd.)
Department of Food & Supplies,
Govt. of NCT of Delhi.

.....Applicant

By Advocate Shri D.R.Gupta

Versus

Union of India
through

1. The Commissioner,
Dept. of Food & Supplies,
Govt. of NCT of Delhi,
Vikas Bhawan,
New Delhi.

2. The Chief Secretary,
Govt. of NCT of Delhi
5, Sham Nath Marg,
Delhi-54.

.....Respondents

By Shri S.K.Gupta, proxy for
Shri B.S.Gupta.

HON'BLE MR. S.R.ADIGE, MEMBER(A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER(J).

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member (A).

In this application, Shri M.S.Bhatnagar, Retired Inspector Grade-II, has prayed for quashing of charge memo dated 29.7.94 (Annexure-A).

2. The applicant, who joined service in the Delhi Administration in December, 1959 as IDC, was in due course promoted as UDC and joined the Food & Supplies Department as Inspector on 20.7.90. He states that he was issued a memorandum dated 16.3.92 calling for his explanation on certain allegations of mis-conduct, to which he submitted his explanation on 21.12.92. Thereafter, two years passed and just

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about the time the applicant was to retire on superannuation on 31.7.94, the department moved the file regarding vigilance case on 22.7.94. The applicant states that Shri R.K.Saxena, Dy.Commissioner(Vig) in his note had mentioned that the applicant and the other Inspector namely, Shri M.M.Sharma were not responsible for the alleged irregularities and the then FSO Shri R.P.Sharma, now Sales Tax Officer was responsible for the same. The note was approved by Food & Supplies/ Disciplinary Authority on 22.7.94 and thereafter the file was submitted to the Director(Vig) who sent it to the Central Vigilance Commission on 27.7.94. The applicant states that the CVC reprimanded Dy. Secretary (Vig.), Govt. of NCT of Delhi for sending the file to them in the last moment and in hurry without reading the case while consenting to issue charge sheet against Shri R.P.Sharma inadvertently wrote Shri R.P.Bhatnagar. Thereafter, respondent No.1/ Disciplinary Authority on 29.7.94 itself, which was the last working day of July and also the last day of applicant's working, issued the charge-sheet which was not served on the applicant. The applicant alleges that the respondent No.1 manipulated the service by pasting it on the quarter of the applicant. The applicant states that he stood superannuated on 31.7.94 and was fully ignorant of issue of charge-memo dated 29.7.94 which in fact was not served on the applicant but was shown as pasted in the record of the department, contrary to the noting of the official at page 2 of the memo. The applicant contends that the proceeding supposed to be initiated on 29.7.94, could not be carried forward since the applicant stood

retired and was ignorant of the issue of charge memo being not properly served. While he came to the department to enquire ^{1 into} the pension etc., he learnt that a charge sheet was issued, and collected a copy from the office file since the original was not in existence. He stated that he replied to the charge memo vide letter dated 3.8.94 denying the charges, and moved an application on 16.8.94 for the release of leave encashment amount and 90% gratuity since the charge memo did not involve any monetary loss to the department. The applicant contends that he approached the Deputy Commissioner(Vig.) working under Respondent No.1 for expeditious disposal of the departmental proceedings and release of pensionary benefits. He was told by the department that there was likelihood of common proceedings and unless Shri R.P.Sharma, the then FSO was charge-sheeted and enquiry ordered, it would take nearly 4 to 5 years for conclusion of the present proceedings.

3. The applicant states that he had not been granted pension and could not see the proceedings concluded in the near future and hence sought quashing of the charge memo dated 29.7.94.

4. The respondents in their reply have stated that this is a case in which the common departmental have to take place not only against the applicant but also against some other officials. So far only the applicant has been charge-sheeted. In respect of other officials, the charge-sheets are under preparation and some records pending in the

Courts of law are awaited. They state that the applicant's explanation not being found satisfactory, the competent authority had decided to proceed against him departmentally and, thereafter the charge sheet was issued without any loss of time. The applicant was to retire on 31.7.94 and, therefore, the charge sheet was issued before that date as per procedure laid down. They deny that the applicant is being harassed by prolonging the disciplinary proceedings.

5. We have heard Shri D.R.Gupta for the applicant and Shri S.K.Gupta for the respondents. We have also perused the materials on record including the relevant file containing notings and discussion leading up to the decision to issue charge sheet and have given the matter our careful consideration.

6. Applicant's counsel Shri D.R.Gupta firstly alleged that the Disciplinary Authority had charge sheeted the applicant at CVC behest without applying his own mind which is contrary to Rule 14 (2) CCS(CCA), 1965. Reliance in this connection has been placed on the case of Anil Goel Vs. UOI 1994(28) ATC 646. Secondly, it has been urged that the charge sheet was not served upon the applicant prior to his retirement, and thus, ^{was} bad in law because the President's sanction for service had not been obtained. Reliance in this connection has been placed on G.Lakshmana Rao Vs. Secretary to Govt. Deptt. of Posts and others (O.A.No.466/90 CAT Hyderabad Bench, decided on 16.7.93). Thirdly, it has been argued that the charges are vague and served with inordinate delay. Reliance in this connection has been placed on Transport Commissioner, Madras Vs. A.Radha Krishan Murthy -1995 (1) 147 S.C. Service Law Judgments and State of M.P. Vs. Bani Singh.

AIR 1990 SC 1308.

7. It has also been alleged that Rule 18CCS (CCA) Rules had not been complied with. The other cases relied upon by Shri D.R.Gupta include S.Mitra Vs. UOI-1986 (4) SLJ 779 and C.Govindraj Vs. UOI-ATR 1991 (1) CAT 600.

8. Upon a perusal of the grounds taken by the applicant, we hold that none of them are such which cannot be raised before the Disciplinary Authority itself and if any grievance survives thereafter before the ^{Appellat} ^{priv to} Disciplinary Authority, before approaching this Tribunal. The Hon'ble Supreme has deplored the practices of Courts/Tribunals intervening in departmental proceedings at interlocutory stages without allowing the applicant to exhaust in the first instance, the ^{remedies} ^{to} already available with them.

9. Thus, without adjudicating upon the merits of the grounds taken by the applicant, we decline to interfere with the disciplinary proceedings at this stage. We would, however, observe that as the applicant is a retired Govt. employee, the respondents should take in hand and conclude the departmental proceedings with the utmost expedition and if after exhausting the available remedies, any grievance still survives, it will be open to the applicant to agitate the matter afresh in appropriate original proceedings in accordance with law.

10. This O.A. stands disposed of accordingly.
No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
MEMBER (A).