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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.2314/2000

New Delhi: this the 11<sup>th</sup> day of October, 2001

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

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

Dr. J. Sundaresan Pillai,  
F-62, CSIR Scientists Apartments,  
Maharani Bagh,

New Delhi-65

.....Applicant

(By Advocate: Shri R.Venkataramni, Sr. counsel with  
Shri Suman Doval).

Versus

1. Director General, CSIR,  
Council for Industrial & Scientific Research  
Anusandhan Bhawan,  
Rafi Marg,  
New Delhi-1.

2. National Institute of Science Communication  
through its Director,  
Dr. K.S.Krishnan Marg,  
New Delhi-12.

3. Director-in-Charge,  
National Institute of Science Communication,  
Dr. K.S.Krishnan Marg,  
New Delhi-12

.....Respondents

( By Advocate: Shri Manoj Chatterjee )

ORDER

S.R.Adige, VC (A):

Applicant impugns the Memo of charges dated 27.2.98 (pages 116-126 of OA), and the suspension order passed earlier on 10.2.98. All the proceedings initiated by respondents pursuant to the charge sheet have also been impugned, and a declaration is sought that the initiation of disciplinary proceedings against applicant is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution and vitiated due to malafides of both fact and law.

2. Applicant and two others had challenged the aforesaid charge Memo and suspension order in O.A.No.748/98.

(9)

After hearing both sides that OA was dismissed on merits by a detailed and well considered order passed by a coordinate Division Bench on 1.7.98 (Annexure A-20) at the admission stage itself and vacating the interim orders.

3. Thereupon applicant filed the present OA.

4. The main grounds advanced by applicant's counsel Shri Venkatramni in the present OA is that after the orders dated 1.7.98 were passed dismissing OA No.748/98 filed earlier by applicant and others, certain developments have taken place warranting judicial interference in the disciplinary proceedings at this stage, namely

(i) In so far as the charges of misbehaviour with certain ladies working in NISCOM as contained in Articles II, III and IV of the charges were concerned, a criminal case bearing FIR No.213/98 U/s 354/34 IPC had separately been instituted against applicant and others, and in that criminal case, the Metropolitan Magistrate by order dated 28.7.2001 (copy taken on record) had concluded that there did not exist sufficient material even *prima facie* to proceed against applicant and others for the offence under sec.354/34 IPC, as a result of which they were discharged.

(ii) The charges of misbehaviour etc. contained in the impugned charge Memo had been levelled against applicant and others because they had dared to expose certain corrupt practices prevailing in respondents Organisation. As a result, an enquiry had been held, and based upon the inquiry report, disciplinary proceedings had been initiated against those who had levelled charges against applicant and others. These disciplinary proceedings were therefore vitiated by malafides.

(iii) Certain documents sought for by applicant and others had not been supplied to them, as a result of which they would be severely handicapped in their defence. This issue had been raised by applicant's colleagues who had filed separate OAs.

5. We do not consider it necessary to repeat

all the reasons why the Coordinate Division Bench of the Tribunal in its order dated 1.7.98 found it fit to dismiss OA No.748/98 after concluding that the Tribunal had no jurisdiction to interfere with the disciplinary proceeding at the interlocutory stage, unless exceptional circumstances exist, and in the present case no such exceptional circumstances existed. We would only add that the aforesaid 3 grounds advanced by applicant's counsel Shri Venkatramani do not warrant any change in the Tribunal's aforementioned conclusions dated 1.7.98.

6. In so far as ground (i) above is concerned, even if applicant was discharged by order dated 28.7.2001 passed by the Metropolitan Magistrate in the criminal case regarding alleged misbehaviour with certain lady co-workers of NISCOM, Article I of the charge Memo relates to applicant entering the room of Shri Bhardwaj on 7.11.97 with about 40 employees and misbehaving with Shri Bhardwaj and intimidating him. This Article of charge is not covered by the aforesaid discharge order dated 28.7.2001. Hence the aforesaid discharge order dated 28.7.2001 is by no means sufficient to quash the charge memo.

7. In so far as ground (ii) above is concerned, the question whether the charge Memo has been issued out of malafide or not can be determined only during the course of the inquiry. As pointed out by the Division Bench in its order dated 1.7.98, the Hon'ble Supreme Court in UOI & Ors. Vs. Upendra Singh (1994) 27 ATC 200 has held that in the case of

charges framed in a disciplinary inquiry the Tribunal or Court can interfere only if on the charges framed (read with imputation or particulars of charge) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law. At this stage the Tribunal has no jurisdiction to go into the correctness of the charges. Even if for a moment we look only at Article 1 of the charges, it cannot be said that the same is contrary to any law, and this entering of the room of an official with about 40 employees, and misbehaving and intimidating him, if established during the course of disciplinary proceeding, would most certainly constitute misconduct. The charge can or cannot be established only during the course of the disciplinary proceeding, and following the law laid down by the Hon'ble Supreme Court in Upendra Singh's case (supra) the Tribunal cannot go into the correctness of the charge at this stage. The correctness or otherwise of the charge will emerge only during the course of the disciplinary proceeding, in which applicant will get full opportunity to defend himself, as per rules and instructions.

8. In so far as ground (iii) above is concerned, the question of supply of documents is already covered by rules, instructions and judicial pronouncements and in any case that cannot be a ground to interdict the disciplinary proceeding before the same has even commenced.

9. In the result, the OA warrants no interference at this interlocutory stage. It is dismissed. Interim order, if any, are vacated. No costs.

A. Vedavalli  
( DR. A. VEDAVALLI )  
MEMBER (J)

S. R. Badige  
( S. R. BADIGE )  
VICE CHAIRMAN (A).

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