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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2398/2000

New Delhi, this the 12th Day of March, 2001.

Hon'ble Shri V.K. Majotra, Member(A),
Hon'ble Shri Shanker Raju, Member(J),

Shri Onkar Chauhan,
S/o Shri Narain Rao,
R/o C-16, Nanak Pura,
Delhi.

.....Applicant

(By Advocate: Shri S.K. Gupta proxy counsel of
Shri B.S. Gupta)

Versus

1. Union of India,
Through Secretary (Culture)
Ministry of Tourism & Culture
Shastri Bhawan, New Delhi.

2. Director-General
Archeological Survey of India
Janpath, New Delhi.

....Respondents.

(By Advocate: Shri N.S. Mehta)

O R D E R (Oral)

By Mr. Shanker Raju, Member(A)

Applicant is a Group 'A' officer has been issued a Memorandum dated 24.2.83 explaining his conduct as to why suitable disciplinary proceedings against him should not be taken for his alleged misconduct of cheating the Government exchequer by claiming false TA bill as well as also claim false LTC bill. A major penalty chargesheet has been issued to the applicant on 16.8.96 vide Annexure A-3. The enquiry officer in his report dated 15.2.99 exonerated the applicant from the charges thereafter he was issued a Memo dated 28.5.99 whereby the applicant had been directed to file his comments or otherwise an exparte order should be passed on the findings of the enquiry officer. Applicant thereafter sent his comments to the

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respondents to take a final decision in the disciplinary proceedings. As sufficient time had elapsed since then no final orders have been passed in the disciplinary proceedings.

2. The applicant in this OA prayed for quashing the chargesheet issued through Memo dated 16.8.96. During the course of the arguments, it is also stated by the learned counsel of the applicant that the respondents may be given further two months time to conclude the proceedings and to pass a final order. On the other hand, the learned counsel for the respondents, at the outset, stated that as the applicant is a Group 'A' Officer, the disciplinary authority being the Ministry of Tourism and Culture examine the enquiry report in detail & after seeking advice of Central Vigilance Commission found charges relating to TA claim etc. was established & further referred the case to UPSC before imposing any penalty. In this background, he stated that the contentions of the applicant that no action was taken since one and a half year is not correct. On the other hand, the learned counsel of the applicant by referring to two communications sent by the respondents at Annexures R-4 and R-5 contended that the steps had been taken by the respondents on the findings only after the applicant had filed the present OA.

3. The learned counsel of the respondents, Shri N.S. Mehta, further stated that if a period of four months is given, the enquiry can be finally concluded, provided that the applicant cooperates in it

by filing an appropriate reply to the disagreement if any to be arrived at on the advice given by the CVC/UPSC. We have carefully considered the rival contentions of the parties. I find from the record that the enquiry had been initiated on 24.4.93, thereafter a Memo under Rule 14 of CCS(CCA) Rules, 1965 whereby a major penalty proceedings drawn against the applicant was issued. According to the guidelines of Government of India, the enquiry should be completed within six months. In the instant case, despite recording of findings by the enquiry officer in favour of the applicant on 11.2.99, almost two years had elapsed and a final order is yet not issued by the respondents. The delay in conclusion of the proceedings is not at all attributable to the applicant. Nevertheless, I find some justification in the averments made by the learned counsel of the respondents. The matter was referred to CVC/UPSC and only then it was decided to disagree with the findings of the enquiry officer wherein the charges were not proved against the applicant. We are also of the view that delay in the disciplinary proceedings prejudices the right of a Government servant as his promotion and other services benefits are adversely affected. The respondents should have taken prompt action to expeditiously dispose of the disciplinary proceedings against the applicant. In this view of the matter, we are fortified by the ratio of the Hon'ble Apex Court in A.P Radhkrishanan Vs.Union of India reported in 1998(4) SCC 152.

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4. Having regard to the above discussions, the OA is partly allowed. We direct the respondents to conclude the disciplinary proceedings against the applicant initiated vide Memo dated 16.8.96 by passing a final order. The applicant is also directed to cooperate in the proceedings and file his prompt reply, if any, to the disagreement to be arrived at by the respondents. It is further made clear that if the disciplinary proceedings is not completed and final order is not passed within a period of three months from the date of receipt of this order, the disciplinary proceedings shall abate. No costs.

S. Raju

(Shanker Raju)
Member(J)

V.K. Majotra

(V.K. Majotra)
Member(A)

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