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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA NO.882/2000

New Delhi: this the 6 day of July, 2000

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

HON'BLE MR.KULDIP SINGH, MEMBER(J)

S.C.Chadha (SE.Civil)
Telecom Civil Circle,

R/o V/17, P & T Satellite Road,
Ahmedabad-380015

.....Applicant

(By Advocate: Shri parag Tripathi, Sr. Counsel
with Ms. Neelima Tripathi)

Versus

1. Union of India
through
Secretary,
Govt. of India,
New Delhi.

2. Ministry of Telecom Services,
through
Secretary,
Department of Telecom Services,
West Block- I, Wing-2,
R.K.Puram, Sector-1,
New Delhi.

3. Department of Telecom Services,
through
Senior Deputy Director General, (Building Works),
Sanchar Bhawan,
New Delhi.

4. Department of Telecom Services,
through
Chief Engineer(Civil),
SCO No.50-51,
Sector 34-A,
Chandigarh.

.....Respondents

(By Advocate: Shri K.R.Sachdeva)

ORDER

Mr.S.R.Adige, VC(A):

Applicant impugns Annexure-A10 Memorandum
dated 20.4.2000 initiating departmental proceedings
against him for allegedly committing irregularities
while awarding the contract for the work of vertical
extension of Telephone Exchange Building at Solan
in 1991 while functioning as SE(Civil) Telecom,Civil

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Circle, Chandigarh.

2. Applicant contends that he had negotiated a tender in 1991 for awarding the work of vertical extension of the T.E. Building at Solan and the said tender was awarded to the lowest tender as per prescribed guidelines. An anonymous complaint dated 12.7.93 was addressed to the Minister I/C Telecom. alleging irregularities in the award of the tender (Annexure-A1) but subsequently the alleged signatory wrote to the CE concerned, on 5.8.94 stating that he had no grievance and denying having made any such complaint (Annexure-A2). The CE in his letter dated 21.3.94 (Annexure-A3) in his comments on the alleged complaint also concluded that the complaint was baseless which was followed by another letter dated 21.6.94 (Annexure-A4) in the same vein, and the authorities also by letter dated 8.2.95 (Annexure-A5) called for applicant's comments, which he submitted on 22.12.95 (Annexure-A 6).

3. Applicant states that thereafter he heard nothing further on the front and assumed that the matter was closed, but all of a sudden, after a lapse of over 5 years was shocked to receive the impugned charge Memo. In this connection he has invited attention to guidelines issued by CVC that no action should be taken on anonymous/pseudonymous petition as these are often actuated by disgruntled elements to blackmail honest officials and are also prompted when such officials are on the verge of promotion.

4. In the grounds taken in the OA it is contended that the proceedings are vitiated by delay; are based

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on an anonymous complaint which is not to be taken cognizance of; the charge sheet is signed by an officer who is junior to applicant; that the charge Memo is contrary to the materials on record; and applicant's reply calling for his explanation has not been considered by respondents before issuing the charge Memo.

5. Respondents have filed their reply. They state that the application is premature at this stage and the CVC's circulars relied upon by applicant are only in the nature of guidelines. It is stated that if the Disciplinary Authority comes across prima facie irregularities on the face of documentary evidence on verifiable facts, he is fully competent to investigate the same, and in fact during investigation and in consultation with CVC malafides were observed on applicant's part while awarding the tender. Respondents denying any delay in issuing the charge Memo and state that the Disciplinary Authority has approved the charge Memo and the same has only been authenticated by the Addl. Director General III (Vig-II) who is competent to authenticate orders and instruments of Govt. (Annexure-R2).

6. Applicant has not filed any rejoinder denying these assertions contained in respondents' reply.

7. We have heard both sides.

8. Applicant's counsel has relied upon the Hon'ble Supreme Court's judgment in State of M.P. Vs. Bani Singh & another 1990 (Supp) SCC 738 where on account of 12 years' delay in initiating disciplinary proceedings which was not satisfactorily explained, it was held

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that it would be unfair to permit the departmental enquiry to proceed at that late stage. On the other hand in Secretary to Govt. Prohibition & Excise Department Vs. L. Srinivasan 1996(1) ATJ 617 the Hon'ble Supreme Court came down heavily on the Tribunal for having quashed the departmental proceeding only on grounds of delay. Again in UOI Vs. Upendra Singh (1994) 27 ATC 200 the Hon'ble Supreme Court while laying down the parameters of judicial interference in disciplinary proceedings at the stage of framing of charges has held that in case of charges framed in a disciplinary inquiry, the Tribunal or Court can interfere only if on the charges framed (read with the imputation or particulars of charge, if any) no misconduct or other irregularity 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 or truth of the charges. The Tribunal cannot take over the functions of the Disciplinary Authority.

9. As the charges framed are not contrary to any law, and on the charge framed, it cannot be said that no misconduct or other irregularity is made out, it is clear that in accordance with the ruling in Upendra Singh's case (supra) the disciplinary proceedings should be allowed to continue. We have no reason to doubt that the disciplinary authority has approved the charge memo and as Addl. Dir. Gen. who signed the same is empowered to authenticate instruments of Govt., even on that score the charge Memo warrants no interference at this stage.

10. The OA is therefore dismissed. No costs.

Kneale
(KULDIP SINGH)
MEMBER (J)

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