

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 046/00251/2020

Date of Order: This, the 26th Day of February, 2021

THE HON'BLE SMT. MANJULA DAS, MEMBER (J)

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)



Sri Richard Yimto, IPS
Inspector General of Police (Without Posting)
Attached to Police Head Quarters
Nagaland Police, KOHIMA
Res:- House No. 159
Ward No. 8, Lane No. 21
Seiruzha Colony, P.O. – Chumukedima
797103, District – Dimapur, NAGALAND.

... Applicant

- Versus -

1. The Union of India
Through the Secretary
To the Govt. of India
Ministry of Home Affairs
North Block, NEW DELHI – 110001.
2. The State of Nagaland
Represented by the Chief Secretary
To the Govt. of Nagaland
Civil Secretariat Nagaland
P.O. – KOHIMA – 797001, Nagaland.

O.A. No. 046/251/2020

3. Principal Secretary & Home Commissioner
To the Govt. of Nagaland
Home Department
Civil Secretariat, Nagaland
P.O. – KOHIM – 797001, Nagaland.
4. The Director General of Police
Govt. of Nagaland
Police Headquarter, Kohima
P.O. – KOHIMA – 797001, Nagaland.

...Respondents.



For the Applicant : Sri P.K. Choudhury

For the Respondents : Sri A. Chakraborty, Addl.
CGSC
Ms. T. Khro, GA, Nagaland

Date of Hearing: 19.02.2021

Date of Order: 26.02.2021

ORDER

NEKKHOMANG NEIHSIAL, MEMBER (A):-

This O.A. has been filed by the applicant through Sri P.K. Choudhury, learned counsel asking for the following reliefs:-

“8.1 The Hon'ble Tribunal be pleased to quash the impugned Order No. PHQ/NGO-1/2018 dated Kohima the 6th September, 2018 issued by the Respondent No. 4 issuing show cause notice to the Applicant as to why Disciplinary Proceeding should not be initiated against

O.A. No. 046/251/2020

the Applicant as being illegal, void ab initio and non-est in the eye of law;

8.2 The Hon'ble Tribunal be pleased to declare that the Disciplinary Proceeding initiated against the applicant vide Memorandum No. POL/ESTT-1/2018(PT-1) dated Kohima the 18th December, 2018 issued by the Respondent No.3 being contrary to Circular No.02/01/2016 dated 18.01.2016 issued by the Central Vigilance Commission, New Delhi and is liable to be quashed as being illegal, void ab initio and non-est in the eye of law.

8.3 The Hon'ble Tribunal be pleased to direct that the applicant be posted in a substantive cadre post in the rank of I.G.P. superceding the impugned Order No. POL/ESTT-1/2018 M(Pt) dated Kohima the 19th November, 2019 issued by the Respondent No.3 in purported compliance of the Order dated 30.10.2019 passed by this Hon'ble Tribunal in O.A.No.046/00220/2019 w.e.f. 19.11.2019 till to date being attached to the Police Head Quarters, Kohima as the same be declared as illegal, void ab initial and non-est in the eye of law;

8.4 The Hon'ble Tribunal be pleased to declare that the impugned Disciplinary Proceeding initiated against the applicant by the Respondent Nos.2 to 4 as illegal, non-est in the eye of law as being contrary to the law laid down by the judgment of the Hon'ble Apex Court reported in 2015 (16) SCC 415 (supra) and thereby quashed the entire pending Disciplinary Proceeding initiated against the applicant by the Respondent No.2 to 4.



2. The case was taken up on 20.11.2020 wherein the point of grievance of the applicant was adequately highlighted and the attention of the respondents was

O.A. No. 046/251/2020

drew to para 3 of CVC Circular No. 07/07/2018 dated 26.07.2018 and also the decision of the Hon'ble Supreme Court in the case of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Anr, 2015 (16) SCC 415**. It was also noted that the respondent authorities even after a period of two years, had not concluded the disciplinary proceeding and accordingly, direction was given to their learned counsel to obtain instruction as to why completion of disciplinary proceeding has been delayed and the prayer of the applicant should not be considered and granted. Subsequently, the case came up on 30.12.2020 and 12.01.2021 wherein respondents more particularly respondent Nos. 2, 3 & 4 were granted further time to file their written statement, in the interest of justice. This has since been filed on their behalf on 28.01.2021.



3. As brought out in above para, the basic grievance of the applicant is that the respondent authorities have inordinately delayed the disciplinary proceeding which has been more than two years

O.A. No. 046/251/2020

against the stipulated period of six months. Hence there is a strong case for setting aside the disciplinary proceeding initiated vide order dated 18.12.2018.



4. Apart from the hearing in the court, we have perused the papers and submissions of both the parties. It is observed that the impugned Show Cause Notice was issued on the applicant on 06.09.2018. The Inquiry Officer and Presiding Officer were also recorded to have been appointed on 03.12.2018, Annexure – A8, page 60 to the OA. Thereafter, Memorandum of charge sheet was issued to the applicant on 18.12.2018. Appointment order for Defence Assistant was issued on 25.02.2019. Subsequently, the charged officer i.e. applicant objected among others to the appointment of the Inquiry Officer from the same department/service (Police) vide his letter dated 22.01.2020. Accordingly, a new Inquiry Officer has been appointed by the respondent No. 3 i.e. Principal Secretary (Home), Government of Nagaland, Home Department, Police Estt. Branch, vide his order under No. POL/ESTT-

O.A. No. 046/251/2020

1/11/2018(Pt) dated 17.09.2020. The respondents i.e. Government of Nagaland, in the written statement at para 19, page 95, submitted that a preliminary hearing had been done on 15.12.2020 and 15.01.2021.



5. The respondent authorities in their written statement basically dwelt on the seriousness of the alleged charges as contained in the Memorandum of charge sheet dated 18.12.2018. The issue in this O.A. is not about the merit of the case. They have however, avoided as to why there has been inordinate delay in progressing the disciplinary proceeding against the applicant. It is noticed that when the Memorandum of charge sheet was issued on 18.12.2018, no enquiry was conducted/progressed till 22.01.2020, by which time, the applicant had objected to the appointment of Inquiry Officer. After this, on technical objection raised by the applicant, another Inquiry Officer was appointed only on 17.09.2020 i.e. after a gap of eight months. The respondent authorities have not explained the reasons for this delay of appointing another Inquiry Officer.

O.A. No. 046/251/2020

Moreover, the respondent authorities also submitted that preliminary enquiry has been conducted on 15.12.2020 and 15.01.2021 i.e. after three months from the date of appointment of another Inquiry Officer. We found that this is against the spirit of fairness and justice to the applicant and also against the general guideline issued by the Central Vigilance Commission as well as against the judgment of the Hon'ble Supreme Court in the case of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Anr, 2015 (16) SCC 415.**



6. Notwithstanding the above, keeping in view the nature of charges as contained in the Articles of Memorandum No. POL/ESTT-1/2018(PT01) dated 18.12.2018, we are not inclined to interfere with the disciplinary proceeding at this stage. The respondent authorities are hereby directed to complete the said disciplinary proceeding initiated vide Memorandum of charge sheet No. POL/ESTT-1/2018(PT01) dated 18.12.2018 within a period of 6 (Six) from today.

O.A. No. 046/251/2020

7. With the above directions, O.A. stands disposed of with no order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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O.A. No. 046/251/2020