

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 256
T.A. No.

1986

DATE OF DECISION 12.11.1987

Sh. Tejinder Singh **Petitioner**

Applicant in person **Advocate for the Petitioner(s)**

Versus

Union of India and another **Respondent**

S/Sh P.P.Rao, S.K.Mehta, **Advocate^s for the Respondent(s)**
M.K.Dua & M.L.Verma

CORAM :

The Hon'ble Mr. Justice D. Pathak, Vice Chairman

The Hon'ble Mr. S. P. Mukerji, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No

S.P. Mukerji
(S. P. Mukerji)

D. Pathak
(D. Pathak)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.256/86

Date of Decision : 12.11.1987

Shri Tejinder Singh . . Applicant

Vs.

Union of India and another . Respondents

For Applicant . . Applicant in person

For Respondents . . S/Sh. P.P.Rao, S.K.Menta,
M.K.Dua & M.L.Verma counsel
respondents

CORAM

The Hon'ble Mr.Justice D. Pathak, Vice Chairman.

The Hon'ble Mr. S.P. Mukerji, Administrative Member

(Judgment of the Bench delivered by Hon'ble
Mr.S.P.Mukerji, Administrative Member)

The applicant Shri Tejinder Singh who was working as Senior Departmental Representative, Income Tax Appellate Tribunal has filed this application dated 15.4.1986 under Section 19 of the Administrative Tribunals Act, praying that the decision of the competent authority dated 22.1.1986 to initiate major departmental proceedings against the applicant should be quashed. The Departmental Proceedings related to the year 1983 when he was working as Deputy Director of Inspection (Vigilance) and the charge is that contrary to Income tax Rules and Government's instructions he did not deposit large amounts of

cash in 1983 promptly and on 32 occasions he committed delays between the dates of search and seizure and dates of actual deposit. The delay ranged between three to five months. While the application was pending before the Tribunal, the respondents issued a Memorandum enclosing charges on 30.6.1986. The petitioner's contention is that he had outstanding record of service and had been selected by the DPC on 12.12.1983 for the post of Commissioner of Income-tax but because of service jealousy, fabricated charges were levelled against him at the instance of one of his colleagues. These charges were enquired into in detail by the CBI who did not find a case for criminal prosecution against him but the respondents initiated disciplinary proceedings without calling for his explanation. He has argued that the search operations are carried ^{out} by the Income tax Officers and their staff and the Assistant Directors supervise these searches and the applicant as Deputy Director had only supervisory responsibilities like his superior, the Director of Inspection. The seized cash is brought to the strong room in sealed packets bearing ^{the} seal and signatures of the ITO as well as of the Assessee and witnesses. He has vividly brought out the fact that there is unavoidable time lag between the date of seizure and date of deposit in the Bank under every Deputy Director's charge and any delay in the deposit of the cash with the Reserve Bank does not lead ^{to} loss of earning of interest as the seized amount carries no interest. He has mentioned specific instances

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of these time lags ⁱⁿ ~~of~~ various units at Bombay where the delay had gone up to one and a half years whereas in his case except a few instances the delay has been of the order of two to three months. His main contention is that he is the only Deputy Director who has been picked up for disciplinary proceedings ~~but~~ ^{whereas} others who are similarly circumstanced and have been responsible of greater delay and in large numbers of such delay have not only been not proceeded against but have been promoted. According to respondents the applicant should not have delayed in depositing the cash and jewellery but ^{the respondents} have admitted the explanation given by the Department ^{to} the Public Accounts Committee that the seized cash does not earn interest in the bank and it is necessary to keep them in the strong room of the Department rather than in the Reserve Bank for administrative purposes. They have also not ^{specifically} denied that the cash is seized and sealed by the I.T.O. in the presence of the assessee and witnesses at the time of seizure, as averred by the applicant.

2. We have heard the arguments of the applicant and the learned counsel for the respondents. The main thrust of the applicant's argument is that by singling him out for disciplinary proceedings the respondents have treated him with hostile discrimination and violated his fundamental right. He has also referred to a number of rulings of the Supreme Court and High Courts who have observed that if law is

administered by the Government with an evil eye and an unequal hand or for an oblique or unworthy purpose the arms of the courts will be long enough to reach it and to strike down such abuse with a heavy hand. According to the applicant he has adduced specific instances of more delay in depositing the seized cash or valuables which have occurred in other Deputy Directors who have been left not only scot-free but promoted while in his case disciplinary proceedings were initiated ^{in order} to block his further promotion. According to him, the delay related to the period from February to July 1983 while the UPSC and the DPC selected him for ~~the~~ ^{his} promotion on 2.12.1983. This selection was challenged by Shri R.C. Handa in a Writ Petition who according to him has a hand in ^{these} false allegations. The CBI did not find a case for prosecution against the applicant and on the basis of a false statement to the Central Vigilance Commission ~~advised~~ ^{were initiated} major disciplinary proceedings against him; ^{he has argued} that it was decided to initiate disciplinary proceedings against him ^{only} on 22.1.86 ^{and} the charge sheet was framed three years after the alleged incident ^{of 1983,} in June 1986. It is admitted by both the parties ^{that} till now the enquiry proceedings have not yet commenced.

3. Having gone through various documents of the case we are left with an uneasy feeling that the respondents have not proceeded against the applicant in a sure-footed manner. We do not wish to go into the merits of the disciplinary proceedings which as

the records show, were initiated against the applicant three years after the alleged lapse on the part of the applicant. The CBI submitted a report in January '86. The learned counsel for respondents was good enough to show the communication from the CBI to us. The communication clearly indicated that there have been many instances of such a delay in the deposit of seized amounts in other circles and that even if in the case against the applicant investigation is prolonged it could never be taken up for prosecution. The CBI however recommended disciplinary proceedings. The disciplinary proceedings in the form of charge sheet commenced in June 1986 but are still limping along.

4. We are not able to persuade ourselves to accept the arguments of the applicant that he has a fundamental right of protection from disciplinary proceedings for the alleged delay and alleged lack of integrity ^{as indicated in} ~~for~~ the charge sheet, merely because other officers similarly circumstanced had not been proceeded against. It is, however, not necessary for us to ~~delve~~ ^{elaborate} this point further, because in this ^{very} case when the respondents went up in appeal to the Supreme Court against the interim order passed by this Tribunal on 27.5.1986, the Supreme Court in their judgment dated September 26, 1986 in Civil Appeal No.2964/86 (Union of India and Another Vs Tejinder Singh) observed as follows.

"After the interminable hearing of this appeal had gone on at quite some time lasting for several days, the appellants

have filed an affidavit sworn by K.V.Choudhry, Under Secretary, Government of India, Ministry of Finance (Department of Revenue) to day. Apart from revealing that the Government has no desire or intention to spare any officer who is found to have intentionally flouted Government instructions and orders with regard to deposit of seized cash etc. and that it had already issued instructions on September 2, 1986 to all the Directorates concerned to review the cases of delay in deposit of seized cash and report the facts, it is further stated that after receiving the reports the Government proposes to scrutinise each and every case and intimate the necessary disciplinary action against such of the officers who may be found to have deliberately flouted Government instructions and delayed deposits, in the light of the advice given by the Central Vigilance Commission. This was in answer to a question put by us to learned counsel for appellants on September 25, 1986 as to whether the Government proposed to initiate departmental proceedings against officers similarly circumstanced as the respondent, asking him to put the facts in the form of an affidavit."

In view of the specific assurance given by the respondents to the Supreme Court that the Government proposes to scrutinise each and every case and take necessary disciplinary action against officers similarly circumstanced as the applicant before us, we see no justification to interfere in the disciplinary proceedings, in this case ^{at this stage} on the ground of hostile discrimination. ₅

5. In the circumstances we reject the application with the direction to the respondents that the ^{enquiry} disciplinary proceedings should be completed within a period of three months from to-day and final orders of the disciplinary proceedings should be passed within a period of one month thereafter. The applicant will be at liberty to approach the Tribunal or any other appropriate legal forum, if so advised, to challenge the disciplinary proceedings in case the same are delayed for no fault of the applicant,

or there is evidence to show that the assurance given by the respondents to the Supreme Court in respect of dealing with the officers similarly circumstanced is not being fulfilled with due diligence and concern.

The application is disposed of on the above lines. There will be no order as to costs.

S.P. Mukerji
12-1-87

(S. P. Mukerji)
Member (A)

D. Pathak
12-1-87

(D. Pathak)
V.C.