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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.2079/90

New Delhi, This the 10th Day of October 1994

Hon'ble Shri Justice S.C.Mathur, Chairman

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Dr.J.C.Gaur
s/o Shri R C Gaur
R/o 8/77 R K Puram
New Delhi.

..Applicant

By None

Versus

1. Lt Governor
through
Chief Secretary
Delhi Administration
Delhi.

2. Director of Education
Old Sect, Delhi.

..Respondents

By None

O R D E R (Oral)

Hon'ble Shri Justice S.C.Mathur, Chairman

1. None appeared from both sides.
2. The applicant has approached the Tribunal to challenge the order of punishment dated 12.7.1990. At the relevant time the applicant was Principal Govt Boys Senior Secondary School, Adarsh Nagar, Delhi. He was proceeded against departmentally for the alleged misconduct for which chargesheet was issued and reads as under:

"He misused his powers in Annual Examination 1981-82 of the School, knowingly deliberately and wilfully - (i) that the said Shri J.C.Gaur did not apply the promotion policy rules in annual results of students(circulated by the the Directorate of Education) on Shri Shri Krishan Kumar, the then student of his school of class VII-E, Roll No.583, for English and Science subjects and declared him a compartmental candidate in both of these subjects and (ii) that the said Shri J.C.Gaur

manuplated the marks obtained by Shri Bharat Bhushan s/o Shri Murari Lal, Roll No.890, by overwriting, which resulted in showing less marks obtained in one paper from 48 to 38 due to which the said student was declared failed in annual results of class IX of the School wilfully and (iii) that the said Shri J.C.Gaur suppressed and destroyed the material evidence/ documents (Answer Sheets of above students) to deceive the Govt and destroy the evidence of his mis-deed."

3. An enquiry was ordered and an enquiry officer was appointed to go into the above charges. The Enquiry Officer gave opportunity of hearing and thereafter submitted his report on 29.6.89 holding that one of the charges had been completely proved and another one had been proved only partially.

4. The disciplinary authority on consideration of the relevant material mentioned in the report of the enquiry officer imposed the penalty of reduction by two lower stages in the time scale of his pay. It was further stated that he would earn increments of pay but the reduction would have the effect of postponing the future increments of his pay.

5. The aforesaid order has been challenged by the applicant primarily on two grounds -(i) the disciplinary proceedings were highly belated as the alleged misconduct was committed in the year 1981-82 but the chargesheet was issued only in the year 1987 and (ii) the applicant was on leave on medical ground from 16.5.84 to 20.7.1989 and the

enquiry officer still proceeded ex-parte resulting in denial of opportunity of hearing to the applicant. In support of the first ground reference has been made to the following authorities:-

(i) Mohanbhai Dungarbhai Parmar Vs. Y.B.Zela and another All India Service Law Journal 1980 page 477 and

(ii) The State of Madhya Pradesh Versus Bani Singh 1990(2) 80 LT 239.

6. It is not necessary for us to examine the above grounds since the present application is barred by section 20 of the Administrative Tribunals Act 1985. The said section provides that the Tribunal shall not ordinarily admit the application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. The applicant was a Central Government employee. He was governed by Central Civil Services Classification Control and Appeal Rules. Under Rule 23(iv) of the said rules he can appeal against his order of punishment imposed upon him. There is no assertion in the application that the impugned order dated 12.7.90 was challenged by the applicant by filing appeal before the appellate authority. Accordingly this applications is barred by section 20 of the Administrative Tribunals Act 1985.

7. Apart from the above, on the facts of the present case we are not satisfied that there was unjustifiable delay in issuing the charge sheet. Complaints had been received against the applicant in the Directorate of Vigilance that he had tampered with the results of two students. These complaints were sent to the Directorate of

Education for investigation and report. Investigation was made by the Vigilance Cell of the Education Directorate. In this investigation the applicant did not allegedly cooperate. He did not produce the relevant papers before the investigation officer. The investigating officer was of the opinion that a prima facie case was made out against the applicant. The applicant was given opportunity to explain his conduct. His explanation did not satisfy the Additional Director Education (Administration). Accordingly report was sent to the Director of Vigilance who referred the matter to the Central Vigilance Commission for advice. The Commission advised initiation of proceedings of major penalty. From what has been stated herein it would be seen that the matter was not allowed to rest for any long period. It was being investigated thoroughly. During the investigation cooperation of the applicant was lacking. In the circumstances the preliminary investigation was bound to take time. All that the department may be accused of is cautious approach. This may be because of the important and responsible office held by the applicant.

8. In view of the above the application is dismissed. There shall be no order as to costs.

P. T. Thiruvengadam
(P.T.THIRUVENGADAM)
Member(A)
10-10-94

S. C. Mathur
(S.C.MATHUR)
Chairman
10-10-94

LCP