

In the Central Administrative Tribunal
Principal Bench: New Delhi

16

1. OA No.2229/91

Date of decision: 23.11.1992.

Shri Kulwant Singh Warriach

...Petitioner

Versus

Union of India through the
Secretary, Ministry of Urban
Development, Nirman Bhawan,
New Delhi & Another

...Respondents

2. OA No.2223/91

Shri Guru Narain Mishra

...Petitioner

Versus

Union of India & another

...Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman
The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioners

Shri J.C. Dangwal, Counsel.

For the respondents

Shri M.L. Verma, Counsel.

Judgement(Oral)
(Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioners in these two cases are the holders of the posts of Assistant Engineer and Junior Engineer respectively in the Central Public Works Department of the Government of India. They have challenged in these cases the orders dated 16.4.1990 and 19.4.1990 by which they have been kept under suspension having regard to the disciplinary proceedings pending against them. The principal contention of the learned counsel for the petitioners is that these are not cases in which the petitioners could have been ^{under} kept ~~with~~ suspension.

It was submitted that the petitioners have continuously taken the contractor to task either because he did not commence the work in time or because the work he was doing was found to be of not the required standard etc.

It is also alleged that the contractor was threatening the petitioners to involve them in serious cases if they did not heed to his request. It is also submitted that the petitioners having been arrested on 20.11.1989 and released on the very next date came to be kept under suspension nearly 5 months thereafter. It was submitted that when the petitioners could be trusted to perform their functions for five months after their arrest, what was the justification for keeping them under suspension by orders made in April, 1990. It was also pointed out that the orders of suspension were not reviewed, as required by law, and in spite of the petitioners repeated request and revision petitions filed for that purpose. Another contention of the learned counsel for the petitioners is that even though more than two years have elapsed after the petitioners were kept under suspension, the enquiry is not yet over. It was submitted that the petitioners are subjected to great humility, financial difficulties and several other problems because of the continued suspension for such a long period.

It was submitted that instances are not wanting when the Courts have in such circumstances stepped in to interfere with the orders of suspension.

2. It is true that the petitioners were not kept under suspension immediately. An explanation has been offered in the reply to the effect that the disciplinary authority was made available the report regarding the trap only on 15.3.1990. It is only when proper material came to the hands of the disciplinary authority that the disciplinary authority could apply its mind and take appropriate decision to pass orders regarding suspension. As already stated, the orders were made in April, 1990. As regards the delay in not reviewing the orders of suspension is concerned, we find that during the pendency of these proceedings the revision petitions filed by the petitioners were duly examined and orders were passed on 26.11.1991, holding that no case for vacating the orders of suspension is made out. One of the principal reasons for declining to vacate the orders of suspension is that all the allegations made by the petitioners in support of their request for cancellation of the suspension are matters which can be examined after evidence is adduced by both the parties in the disciplinary enquiry. It is in this background that much weight has not been attached to the allegations made by the petitioners against the contractor. It is true that nearly two years have elapsed and the enquiry has not yet been completed. We were taken through the ordersheets of the Enquiry Officer which gives an impression to our mind that the Enquiry Officer has been discharging his functions quite diligently.

19

He has been pulling up the department for their tardiness and delay and has been pressing for making progress in the enquiry. We have, therefore, no hesitation in holding that the enquiry is in safe and proper hands who is making best efforts to expedite the process of enquiry. If in spite of this there are difficulties in the way they have got to be tackled and the disciplinary proceedings have to be concluded within a reasonable time. One of the problems that the Enquiry Officer faced was about some amendments made in regard to the list of evidence on which the department proposes to rely upon to establish the charges. They have made certain amendments to the statement of imputation and the list of evidence which they proposed to rely upon. There is, however, no change or amendment of the charges levelled against the petitioners in the enquiry. What is important to notice is that in the light of these amendments the petitioners themselves have made request on 20.11.1992 for permission to inspect nearly 30 documents mentioned therein. This undoubtedly would take some time, as documents have to be traced or collected and made available to the petitioners for inspection. These are only circumstances which indicate the reasons why the enquiry could not be concluded in spite of the diligent efforts being made by the Enquiry Officer. On the question as to what would happen if the orders of suspension are revoked and why there is reluctance on the part of the department to revoke the orders of suspension, the stand taken by the respondents is that charges levelled against the petitioners being grave and serious in character it would not be safe to trust the petitioners with their

20

responsibilities as Assistant Engineer and Junior Engineer respectively until the cloud against them is cleared. It is necessary to note that these are cases of laying trap. The petitioners are alleged to have received bribe for which a trap was laid. There is also something to indicate that the conversation has been recorded in a tape. We should not be unmindful to the interest of public administration, particularly in the prevailing atmosphere of corruption in our country. If the authorities in the circumstances take a cautious approach of not vacating the orders of suspension which result in permitting the petitioners to function as Assistant Engineer and Junior Engineer, it cannot be said that the exercise of discretion in this behalf, having regard to the facts and circumstances of the case be regarded as manifestly unreasonable or arbitrary particularly when the charges are about corruption. It would not be safe to put back the petitioners in the office as Assistant Engineer and Junior Engineer until the cloud of corruption is removed. This does not mean that the petitioners should unduly suffer for long period by the delayed disposal of the disciplinary proceedings. As far as this aspect of the matter is concerned, we are satisfied that this is a case in which a diligent Enquiry Officer is pursuing the enquiry with utmost diligence. We hope and trust that he would be able to complete the enquiry without much delay.

3. After having examined all the relevant facts we are

not inclined to take the view either that the orders of

suspension were not justified when they were passed or that they call for being vacated having regard to the subsequent events viz. lapse of nearly two years after the memo of charges were served on the petitioners.

4. For the reasons stated above, while declining to interfere with the orders of suspension in these cases, we direct that the disciplinary enquiry shall be concluded with utmost expedition.

5. Both the cases stand disposed of with these directions. No costs.

6. Let a copy of this judgement be placed in the case file of OA-2223/91.

Sell

(I.K. RASGOTRA)
MEMBER (A)

San.
231192

sd/-
V
(V.S. MALIMATH)
CHAIRMAN

Attested

Court Officer
Central Administrative Tribunal
Principal Bench, New Delhi
Faridkot House,
Copernicus Marg.
New Delhi-110004