

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

Regn. No. O.A. 2710/91

Date of decision 27.8.92

A.K. Saxena

Applicant

Shri S.K. Bisaria

Counsel for the applicant

vs.

Union of India & Anr.

Respondents

None

Counsel for the respondents

CORAM

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J).

The Hon'ble Mr. L.P. Gupta, Member (A).

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgment of the Bench delivered by Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).)

JUDGMENT

The applicant is an IPS officer who was allotted to Rajasthan cadre of the Indian Police Service and joined the service on 13.7.73. He was posted as Superintendent of Police at Pali on 10.8.88. Between 21.8.88 and 11.9.88, some disputes and trouble occurred between two groups of persons with regard to property belonging to 'Nath community'. According to the O.A., the Police under the Deputy Superintendent of Police, Jaitaran, registered the case and filed the chargesheets against the accused persons. According to him, the applicant was not connected in the investigation or administration when these incidents took place. According to the applicant, politically motivated persons raised this political issue in the Rajasthan Vidhan Sabha and on 10.10.88, the Chief Minister

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(Tb)

of Rajasthan made certain statements and assured that an inquiry shall be instituted. Consequent to this, the applicant was transferred to Department of Personnel at Jaipur on 15.10.88 without any posting. He remained at Jaipur waiting his posting order, but on 23.12.88, he was directed to join on deputation in Central Industrial Security Force. He was relieved by the Director General of Police, Rajasthan, on 31.12.88 and joined his new post on 9.1.89. He received a charge memo dated 16.1.89 regarding the above mentioned incidents which took place within the jurisdiction of Police Station, Raipur, Distt. Pali, Rajasthan. The applicant submitted his detailed written statement of defence before Respondent No 2 dealing ^{with} all the allegations. Meanwhile, junior to the applicant, IPS officers were promoted while he was not given any promotion. He, therefore, made a representation which was rejected. Meanwhile, the applicant has been promoted in the Central Government to the rank of Deputy Inspector General of Police in the Special Service Bureau, Directorate of Security, Cabinet Secretariat at New Delhi, and since then he is working in the said post. According to him, departmental proceedings have not yet been started against him and he is stagnating in the present post under the shadow of fear of the departmental inquiry. He, therefore, filed this O.A. under Section 19 of the Administrative Tribunals Act of 1985 praying therein for quashing the chargesheet dated 16.1.89 delivered to him on 14.3.89 on the ground that it is arbitrary, illegal and politically motivated. By way of consequential reliefs, the applicant has prayed that he should be promoted to the rank of DIG w.e.f. 27.2.91 with a direction to Respondent No 2 to open his seal ^{el} cover and declare the applicant promoted as D.I.G.

2. On notice, none of the respondents appeared and participated in these proceedings though they were duly served with the notices. No counter has been filed by them in this O.A. Thus, the contents of the O.A. do not stand rebutted by the respondents.

3. Shri S.K. Bisaria learned counsel for the applicant, contended that this inquiry which is pending against him has become stale

Lambhly

as the departmental inquiry has not proceeded after the filing of the chargesheet on 16.1.89 and that he is under the constant threat without getting any departmental punishment. He also contended that the chargesheet filed is politically motivated as it was not a question of law and order under the jurisdiction of the applicant, but solely within the jurisdiction of the Deputy Superintendent of Police. Be that as it may, the question of delay has to be decided. According to him, he received the chargesheet on 14.3.89. Till filing of the O.A., only 3 years have elapsed. The consensus of plethora of judgments of this Tribunal is that normally if the enquiry is not concluded within a period of 5 years, then it can be quashed. However, the question of delay always depends upon the facts and circumstances of the particular case. In this case, we found that only three years have elapsed and Respondent no. 2 has not taken any action to complete the departmental inquiry against the applicant. Some of the cases cited by the counsel for the applicant at the Bar are not relevant because they are based upon the facts and circumstances of that case. The applicant is an IPS officer and quite senior in his rank. He is being proceeded, according to Annexure 2, under Rule 10(a)(b) of the All India Services (Discipline and Appeal) Rules, 1969. The respondents have not participated in this O.A. and have not put up any defence to the O.A. We are, therefore, of the view that this O.A. should be partly allowed in the following terms:

(i) Respondent No. 2 is directed to conclude the departmental inquiry pending against the applicant within a period of four months commencing from 15.9.92 and should be concluded before 15.1.93.

(ii) If the departmental inquiry is not concluded on or before 15.1.93, then respondents shall open the sealed cover ~~and forward final documents copy~~ of the applicant and promote the applicant to the post due to him, according to the provisions of the rules and allot him due seniority in the rank.

(iii) No order as to costs.

(12)

4. This O.A. thus stands finally disposed of in the terms indicated hereinabove.

I.P. Gupta
(I.P. GUPTA) 27/8/92
MEMBER (A)

Ram Pal Singh
(RAM PAL SINGH)
VICE-CHAIRMAN (J)

MP 243/95 is
listed.