

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.1945/2004

New Delhi, this the 11th day of April, 2005

Hon'ble Mr.Justice V.S. Aggarwal, Chairman
Hon'ble Mr.M.K. Misra, Member(A)

Shri R.D. Chetival,
R/o B-1/149,
Paschim Vihar,
New Delhi

....Applicant

(By Advocate: None)

Versus

1. Union of India,
Through, Secretary Ministry of Labour,
Shram Shakti Bhawan,
Rafi Marg, New Delhi
2. Chairman,
Central Board of Trustees, Employees Provident Fund
Organization,
Shram Shakti Bhawan,
New Delhi.
3. Central Provident Fund Commissioner,
Employees Provident Fund Organization,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place, New Delhi.
4. Shri A.K. Aggarwal,
Commissioner for Departmental Inquiry
& Inquiring Authority,
Satarkata Bhavan,
Block-A, CGO Complex, INA,
New Delhi-23

....Respondents

(By Advocate: Shri V.S.R. Krishna)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant by virtue of the present application seeks quashing of the orders initiating disciplinary proceedings against him. The impugned order dated 19.7.2004 states all the facts which reads as under:

"WHEREAS, disciplinary proceedings under Rule 10 of EPF Staff (CCA) Rules, 1971 were initiated against Shri R.D. Chetival, Addl. CPFC vide Memorandum No. Vig. VII(14)96 dated 1st June 2000 for certain omissions and commissions in conducting 7A proceedings in respect of M/s Tata Chemicals Ltd., Mithapur (GJ/1061).

WHEREAS, on denial of charges, an oral inquiry was ordered to inquire into the charges. Consequent to retirement of Shri Chetival, on attaining the age of superannuation on 31.03.2003, the said proceedings stood converted into proceedings under Rule 9 of CCS (Pension) Rules, 1972.

WHEREAS, Shri Chetival submitted a representation dated 06.02.2004 for change of Inquiry Officer on the grounds of bias. The Disciplinary Authority while considering the aforesaid representation and perusing the records of the case came to the conclusion that no useful purpose would be served by pursuing the case any longer particularly considering the fact that Shri Chetival has since retired. Accordingly, the competent authority ordered that the inquiry was not to be proceeded further and the charges as framed against Shri Chetival, Addl. CPFC (Retd.), vide Memo dated 1st June 2000, be dropped. The disciplinary proceedings were, therefore, dropped vide Order No. Vig.VII(14)96 dated 7th May 2004.

WHEREAS, the Central Government, being Appellate Authority in the Case, on being brought the matter to its notice, called for the records of the case for reviewing the Order dated 7th May 2004 passed by the Disciplinary Authority.

AND WHEREAS, The Appellate Authority on perusing the records of the case has found that the facts and circumstances based on which the Disciplinary Authority had taken decision to drop the charged were, in fact, the same as at the time of

V.S Ag

3

13

initiation of inquiry and had neither changed nor any new material fact or revelation had come to notice which could justify the decision to drop the inquiry proceedings.

AND WHEREAS, the Appellate Authority has also considered the representation dated 06.02.2004 submitted by Shri Chetival and found that no legitimate case of bias has been made out.

NOW THEREFORE, the competent authority, hereby, sets aside the Order dated 7th May 2004 of the Disciplinary Authority and remits back the case to the Inquiry Officer who shall proceed with the inquiry from the stage where he had left. It also rejects the representation dated 06.02.2004 submitted by the Charged Officer.

By order and in the name of Central Government."

2. It is not being disputed at either end that earlier the departmental proceedings that had been initiated, were dropped by the disciplinary authority but the appellate authority, by the impugned order, has revived the same.

3. We are not delving into any other controversy but suffice to say that the applicant's grievance is that while the disciplinary proceedings had been dropped, the same could not have been revived without giving a notice to show cause.

4. In the reply filed, the plea of the respondents is that Rules do not provide for such a show cause notice.

5. The principle of law is well settled. Whenever an order which affects the civil rights of the person is passed, a notice to show cause should be given. This principle has made deep inroads into our jurisprudence. S suffice to say at this stage that the present order which is being impugned does affect the rights of the applicant because proceedings earlier had been dropped against him. In all

18 Aug

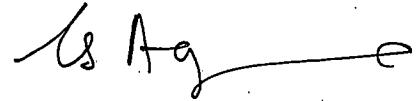
✓

fairness, therefore, the notice to show cause should have been given before passing such an order.

6. The rules will not always contemplate of such eventualities. Even if there is no specific bar, in all fairness, the principles of natural justice could not have been given a go-by.

7. Resultantly, on this short ground, we allow the O.A. and quash the impugned order. It is directed that if any further action is contemplated, there shall be due compliance of the principles of natural justice. O.A. is disposed of.


(M.K. Misra)
Member(A)


(V.S. Aggarwal)
Chairman

/dkm/