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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 739/2004

New Delhi, this the 6th day of July, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A. SINGH, MEMBER (A)

Sh. M.P. Sharma
Deputy Superintendent of Police
Central Bureau of Investigation
Special Investigation Cell-I
C-I Hutmants, Dalhousie Road
New Delhi. Applicant

(By Advocate: Sh. M.K. Bhardwaj)

Versus

Union of India & Ors.
through:-

1. The Secretary
Cabinet Secretariat
North Block
New Delhi.
2. The Director, C.B.I.
Block No.3, CGO Complex
New Delhi. Respondents

(By Advocate: Sh. M.M. Sudan)

O R D E R

Justice V.S. Aggarwal:-

Applicant (Sh. M.P. Sharma) is a Deputy Superintendent of Police in Central Bureau of Investigation (for short 'CBI'). By virtue of the present application, he seeks a direction to the respondents to drop the departmental proceedings initiated vide Memo. dated 5.11.1999 and quash the charge-sheet dated 5.11.1999.

2. Some of the relevant facts can conveniently be delineated.

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3. Applicant had been served with Memorandum of 5.11.1999. The following Articles of Charge were mentioned.

"Article-I"

That you Shri M.P.Sharma while functioning as DSP in CBI, ACU(VI) Branch, New Delhi during the months of May and June 1997 illegally entertained one Mr. Denzil O'connell of F-13, Sec.39, Noida, UP who had a civil dispute with one Mr. Carmichael Martin and at his instance threatened Inspectors H.M. Joshi and Rajesh Kumar of ACU (V) Branch of CBI, New Delhi by levelling allegations against them to have demanded Rs.4.5 lakhs and Rs.1.5 lakhs respectively as bribe from the said Denzil.

Article-II

Whereas during the aforesaid period and while functioning in the aforesaid office you Shri M.P.Sharma falsely told both the said Inspectors and some of their other colleagues that the said Denzil had met the DIG, AC II and had made a complaint against Inspectors H.M. Joshi and Rajesh Kumar of ACU(V) Branch of CBI, New Delhi to the DIG and the DIG had marked the said complaint to Shri M.P. Singh, SP, ACU(VI) who in turn had marked the said complaint to you for inquiry.

Article-III

Whereas during the aforesaid period and while functioning in the aforesaid office, you Shri M.P.Sharma misused a false entry made in the Visitor's Register of the CBI office, Lok Nayak Bhawan, New Delhi by the said Mr. Denzil in between serial numbers 7 & 8 under dated 30.5.1997 to have met Shri M.P. Singh, SP, ACU(VI) with a view to show the authenticity of Denzil having made complaint to the Senior Officers of CBI against Inspectors Rajesh Kumar and H.M. Joshi."

4. The grievance of the applicant as pleaded is that one Mr. Denzil who is a son of the applicant's friend had come to the Central Bureau of Investigation's office to meet Inspector Rajesh Kumar.

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The said Inspector had called Mr. Denzil by giving a reference of complaint stated to be made against him. In fact, no complaint was pending against Mr. Denzil. The said Inspector called Mr. Denzil again to the office of CBI and demanded Rs.1 lakh from him to settle the issue. When the said Inspector Rajesh Kumar could not fulfil his desire of extorting money, then he hatched conspiracy with his other colleague H.M. Joshi and sent him to Shri Denzil for extorting money. Mr. Joshi went to the house of Mr. Denzil and projected himself as an Income Tax Officer and threatened him. Since Mr. Denzil was son of the applicant's friend therefore, he visited him and apprised him of the incident. There were cross allegations, the matter was, therefore, referred to the Department of Personnel and Training for opinion of the Central Vigilance Commission (for short 'CVC').

5. Applicant's grievance is that respondents should have awaited for the opinion of the CVC but they acted arbitrarily and continued with the inquiry separately against the two Inspectors, namely, S/Shri Rajesh Kumar and H.M. Joshi. Since there were cross allegations, therefore, respondents should not have called the applicant as witness in the proceedings. On 27.8.1999, the Department of Personnel and Training has advised that in view of the circumstances of the case, the departmental inquiry against the applicant and two other Inspectors should be conducted by the same inquiry officer.



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6. On 21.10.1999, the Director of CBI had decided to hold a joint inquiry against the applicant as well as the two Inspectors. The Director of CBI had also ordered for sending the self contained note about the delinquency of the said S/Shri Rajesh Kumar and H.M. Joshi.

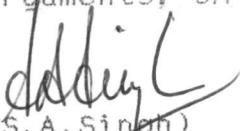
7. The respondents had made available to us the departmental file which clearly shows that approval of the disciplinary authority had been taken for a joint inquiry under Rule 18 of the CCS (CCA) Rules against the applicant and two other persons referred to above. This decision had been taken on 27.9.1999. However, the departmental inquiry against the two persons had completed. The result was that the departmental inquiry against the applicant was felt to be taken and initiated separately. The matter had been taken up with the Central Vigilance Commission and it was noticed that it was not possible to comply with the advice of the Central Vigilance Commission. The file with all these facts had again been submitted to the disciplinary authority and on 30.6.2003, the approval had been taken mentioning the facts.

8. The argument that their order so passed could not be reviewed, in the peculiar facts has to be stated to be rejected. It is not a case of review. Herein, there has been a mistake. Though there would have been a joint inquiry but some-how it was not held. Once a mistake had been detected, there is no

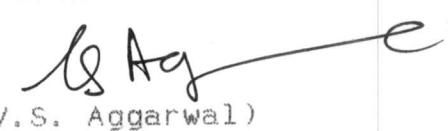


legal bar in correcting the same. In this regard, therefore, the contention of the learned counsel for the applicant must fail.

9. Resultantly, in the absence of any other arguments, OA must fail and is dismissed.


(S.A. Singh)

Member (A)


(V.S. Aggarwal)
Chairman

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