

-19-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.3222/92

Dated this the 12th of May, 1995.

Shri N.V. Krishnan, Hon. Vice Chairman(A)
Dr. A. Vedavalli, Hon. Member(J)

Shri B.S. Jolly,
S/o Shri B.N. Jolly,
working as Assistant
Engineer, Central Design
Organisation, V, C.P.W.D. Wing 'C',
Indraprastha Bhavan, I.P.Estate,
New Delhi 110 002.
R/o B-6/41/1, Safdarjang Enclave,
New Delhi-29.

By Advocate: Shri B.S. Charya.

versus

1. Union of India through
Secretary,
Ministry of Urban Development,
Nirman Bhavan,
New Delhi 110 011.
2. Director General (Works),
Central Public Works Department,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi 110 011.

...Respondents

By Advocate: Madhav Panicker.

O R D E R (Oral)
(by Shri N.V. Krishnan)

The applicant had filed this OA for a direction to set aside the memorandum of charges dated 12.5.88 issued to him and to withdraw the departmental proceedings as the enquiry had not made any progress and also to open the sealed cover in which recommendations of the DPC have been placed.

2. When the matter came up for directions on 11.12.92, it would appear that, without notice to the respondents, the OA itself was disposed of. Without going through the merits, the respondents were directed to complete the enquiry upto the appellate stage, within six months from the date of receipt of that order.
- k

~~21~~ 20

3. The respondents did not have any quarrel with the aforesaid exparte order. However, they filed MA.1938/93 seeking extension of time to implement the judgement, ie. extension of time to complete the departmental proceedings. It was stated that the charges related to the period when the applicant was on deputation with the Delhi Development Authority (DDA) and that, despite their vigorous efforts, the records have not been received from the DDA to complete the disciplinary proceedings. This MP was ^{on 19.7.93} allowed and extension of time was granted upto 31.12.93, ie. for a further six months in continuation of the order dated 11.12.92. It was also impressed upon the respondents that they would not get further time for this purpose because, the Tribunal observed as follows:

"Respondents will do well to complete the departmental proceedings by 31.12.93, as there will be no justification for keeping the departmental proceedings alive after 31.12.93."

4. Admittedly, no order was passed in the disciplinary proceedings on or before 31.12.93. The applicant, therefore, filed MA.23/94 for direction to the respondents to open the sealed cover containing the recommendations of the various DPCs from 1990 onwards, in regard to the applicant's fitness for promotion to the post of Executive Engineer (Civil). It was mentioned that the applicant was due for retirement in July 1994.

u

5. At about the same time, the respondents filed MA.24/94. That MA was dated 31.12.93, but was filed in the Registry on 3.1.94. For the same reasons, for which they requested for more time in the earlier MA.1938/93, further time upto 30.6.94 was sought for completing the disciplinary proceedings.

6. Both these MAs were pending and final orders remained to be passed. It is also to be noted that the Tribunal ^{is not} had restrained the respondents from continuing the disciplinary proceedings, even though the time limit earlier given for completion, ie. 31.12.93 had already expired. Subsequently, the respondents came up with another MA.1544/94 on 19.5.94. This sought further extension of time of six months, in continuation of the prayer in MA.24/94 ie. upto 31.12.94. In this MA, the respondents have stated the various stages that have to be passed to complete the proceedings upto the appellate stage. They have also indicated the time required for various stages to justify the prayer. The prayers for extension of time have been resisted by the applicant.

7. While so, the applicant also filed an additional affidavit on 25.11.94 in the MA 23/94 filed by him. By this additional affidavit, he has brought to our notice, certain new facts. The applicant has been permitted to retire on the due date ie. 31.7.94. He has been given the entire amount of gratuity, less a token sum of Rs.1000/- withheld in every case, vide the order dated 2.8.94 (Annexure A-5). Likewise, on the same day, commutation of pension has also been allowed (Annexure A-6). In the circumstances, he

u

contends that keeping in view the provisions of Rule-9 and Rule-69 of the CCS (Pension) Rules, it has to be inferred that the respondents, on their own, voluntarily closed the departmental proceedings and dropped it and that, as a consequence, these benefits have been given to him.

8. The learned counsel for the respondents, however, denies this and states that action is being taken against the staff responsible for disbursal of pensionary benefits.

9. We have heard the learned counsel for both parties.

10. The basic question is whether there is any justification at all for grant of extension of time in regard to completion of departmental proceedings in view of the considered orders of this Tribunal on 19.7.93 disposing of MA 1938/93 and the note of caution administered then. We are of the view that, prima facie, the respondents cannot claim further time. Nevertheless, as stated above, this Tribunal did not come in their way to either continue with the departmental proceedings or to pass a final order thereon during the pendency of the subsequent MA.24/94 and 1544/94, wherein, additional time was sought for completing the departmental proceedings.

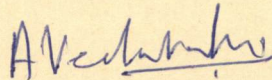
11. We would have been inclined to consider these MAs for extension of time on merits. But certain events have taken place which renders the MAs infructuous, as it were.

u

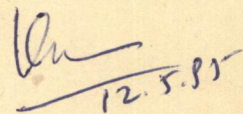
12. Rule-9 read with Rule-69 of the CCS (Pension) Rules, 1972 authorises the authorities, in such cases, to pay only provisional pension and withhold both gratuity and commutation. The release of the gratuity and commuted value of pension in entirety to the applicant is a significant event. In this view of the matter, we are not inclined to grant any further time to the respondents to complete the departmental proceedings and we therefore, declare that these proceedings should be deemed to have abated.

13. What remains is only to pass an order in regard to sealed cover in which, it is stated, recommendations of the DPC have been placed in respect of the applicant when his case was considered for promotion in 1990. We direct the respondents to open the sealed cover and take such action according to law as advised, within a period of three months from the date of receipt of this order.

14. MAs are disposed of accordingly. OA already stands disposed of. No costs.



(Dr. A. Vedavalli)
Member(J)


12.5.85

(N.V. Krishnan)
Vice Chairman(A)

/kam/