

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

0A.686/92

Date of decision: 29.04.1995

Shri J.M. Sahey, Applicant.

Versus

Union of India - Respondents.

Shri P.P. Khurana Counsel for the applicant.

Shri R.S. Aggarwal Counsel for the respondents.

CORAM: The Hon. Mr. N.V. KRISHNAN, Vice Chairman(A)

The Hon. Mr. C.J. ROY, Member (J)

JUDGEMENT (Oral)

(delivered by Hon.Vice Chairman(A) Shri N.V.KRISHNAN)

We have heard the learned counsel for the applicant. The applicant was proceeded against in the departmental proceedings initiated vide memorandum of charges by Annexure A-1 dated 2.4.90. He denied the charges and an enquiry officer was appointed. The enquiry officer gave a report (Annexure A6) in which, he came to the final conclusion that the charge is partly proved. The disciplinary authority, thereafter, issued the Annexure A-7 notice, dated 31.12.91/21.1.92 in which, he held, contrary to the findings of the enquiry officer's report, that the charge against the applicant is fully proved. He also furnished a copy of the enquiry officer's report to the applicant and

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gave him an opportunity to offer an explanation, if any, on the enquiry officer's report, within 7 days from the date of receipt of the memorandum.

2. It is, at this stage, that the applicant approached this Tribunal, seeking a direction to quash the charge memo (Annexure A1) and the memo dated 31.12.91 (Annexure A-7) of the disciplinary authority.

3. Before admission, a notice was issued to the respondents, who filed a reply. The case has come up before us for admission. We notice that the final orders ⁱⁿ of the disciplinary proceedings have not been passed and that therefore, this application is premature. We have heard the learned counsel for the applicant on this issue. We are not satisfied by his argument that this application, nevertheless, lies. We are, therefore, of the view, that at this stage, this application should be disposed of, with certain directions. The learned counsel for the applicant, however, prayed that in the view that this Bench is taking in this case, the application may be kept pending, till the final order is passed by the disciplinary authority. We are of the view that this would not be proper.

4. In the circumstances, without going into the merits of the case, we dispose of this application at the admission stage with a direction to the applicant that, if he so chooses, he may file a representation, as required of him by the Annexure A-7 order, within a period of 2 months from the date of receipt of this order and in case, any such

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representation is received, we direct the disciplinary authority to dispose of this case within a period of six months from the date of receipt of this representation, keeping in view the fact that a reference to the UPSC would be necessary before a final order is passed.

5. The application is disposed of accordingly.

us for
(C.J. ROY)
Member(J)
29.04.1993

Varu
(N.V. KRISHNAN)
Vice Chairman(A)
29.04.1993

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