

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.1690/93

Date of decision: 24.8.93

P.L.Narang ...Applicant

Versus

Union of India & Others

...Respondents

WITH

OA No.1691/93

S.C.Upadhyay ...Applicant

Versus

Union of India & Others

...Respondents

CORAM:

HON'BLE MR. J.P.SHARMA, MEMBER(J).

HON'BLE MR. S.GURUSANKARAN, MEMBER(A).

For the applicant

...Shri V.S.R.Krishna,
Counsel (in both cases)

For the respondents

...None.

JUDGMENT

(Delivered by Hon'ble Mr. J.P.Sharma, Member(J))

In both the cases, the facts are almost similar and

common question is involved for consideration on the point

of admission. Both the applicants are Assistant Engineer

(Telecom), Railway Electrification Project, New Delhi.

Shri P.L.Narang was formerly a J.E.T., Gwalior and now

Assistant Engineer (RE) and Shri S.C.Upadhyay, S.D.O.T.,

Morena and now Assistant Engineer (RE), were served with a

Memo of chargesheet dated 17-3-89 along with statement of

Article of Charges, statement of imputation of misconduct



on the respective article of charges, list of documents by which the article of charges framed against them to be produced in evidence and list of witnesses to be examined in the enquiry. Shri P.L.Narang denied the article of charges by the memo dated 18-5-89 and similarly Shri S.C.Upadhyay denied those charges by the memo dated 6-4-89.

An enquiry has commenced and certain witnesses have also been examined and cross-examined of the charges. The grievance of both these applicants is against the aforesaid memo of charges dated 17-3-89 and both the applicants have prayed for quashing of this chargesheet dated 17-3-89 with the direction to the respondents to accord all consequential benefits to the applicants in promotion, seniority and arrears of salary and allowances.

2. We have heard the learned counsel for the applicants on the point of admission. The present applications are prima facie barred by limitation as provided under Section 21(1) of the Administrative Tribunals Act, 1985. For the redress of the grievance, the applicants have to come within time and that is not the case here. Court is bound to apply the law of limitation whether it is pleaded or not. The Court has to dismiss a suit which is apparently beyond time. AIR 1935 ALLAHABAD p.946 FULL BENCH - B. UDAIPAL SINGH VS. LAXMI CHAND. The contention of the learned counsel for the applicants is that the

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(4)

applicants have a recurring cause of action and can challenge the chargesheet served upon them at any time till the enquiry is concluded. However, it is not so. The cause of action has arisen when the memo of chargesheet was served on the applicants in March 1989. Thus, the present applications for quashing the chargesheet are not within time. Secondly, the enquiry proceedings against the applicants and some of the witnesses have also been examined and cross-examined by the charge officials. There is no justification to quash the chargesheet when the proceedings are already in progress.

4. It is further contended by the learned counsel for the applicants that the said enquiry is pending since 1989 and has not yet been concluded. There is averment in the application itself to the effect that Shri R.H.Goel, Commissioner for Departmental Enquiry was appointed as Enquiry Authority but Shri R.H.Goel was not available, so Shri J.P.Khare was appointed as Enquiry Authority. The applicants requested the Enquiry Authority Shri Khare to make available certain documents for inspection but these documents were not available. In the meantime, Shri J.P.Khare superannuated without completing enquiry and thereafter Shri P.C.Gunawat was appointed as an Enquiry Officer. In the meantime, the present officer was

transferred to Calcutta and enquiry had to be postponed.

However, Shri P.C.Gunawat, Enquiry Officer was reverted from his post and thereafter, the fresh Enquiry Officer has not been appointed.

5. A perusal of the above would show that there are no administrative lapses on the part of the administration and the delay in conclusion of the enquiry has been due to certain developments beyond the control of the disciplinary authority. In view of this, it cannot be said that there is a deliberate delay in the completion of the enquiry against the applicants. The learned counsel, however, in the last, contended that a direction be issued to the respondents to complete the enquiry expeditiously. We have considered this also.

6. The present applications, therefore, are not maintainable so far as they relate to quashing of the chargesheet and are dismissed. However, the respondents are directed to conclude the enquiry expeditiously in a reasonable period preferably within six months. A copy of this order be sent to the respondents and also be placed on each file. No costs.

(S.GURUSANKARAN)
MEMBER (A)

'PKK'
21081993.

Decided by me.

(J.P.SHARMA)
MEMBER (J)

24.6.93

True Copy
Attest
On 24/6/93
PRITAM FO
Court Office
Central Administrative T
Principal Benc
kot House, New D