

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA No. 1973/93

Date of decision: 21.09.1993.

Shri K.L. Pruthi

...Petitioner

Versus

Union of India through the  
Controller General of Accounts,  
Ministry of Finance, Department  
of Expenditure, New Delhi & Another

...Respondents

Coram:- The Hon'ble Mr. I.K. Rasgotra, Member (A)  
The Hon'ble Mr. J.P. Sharma, Member (J)

For the petitioner

Shri S.S. Bhalla, Counsel.

For the respondents

None.

Judgement(Oral)  
(Hon'ble Mr. I.K. Rasgotra)

We have heard the learned counsel for the petitioner. The petitioner was on deputation in the Delhi Development Authority (DDA). Relating to the period of his service in D.D.A. some case had gone before the Arbitration Board. The claim of the respondents amounting to Rs.1.71 lacs was rejected by the Board of Arbitration. The respondents called for the explanation of the petitioner and thereafter considered the matter. They served a charge memorandum on 6.8.1993. In this O.A. the petitioner has prayed for the following reliefs;—

- i) that the impugned order at Annexure-C, be quashed and set aside; and
- ii) that the applicant be promoted as Senior Accounts Officer w.e.f. 1.11.1987 as recommended by the DPC vide OM dated 31.3.1993 and that due seniority be assigned to him, as his juniors have been promoted w.e.f. 13.4.1993.

A perusal of the O.A. shows that the petitioner had also filed OA-1444/93 which has been admitted. According to the learned counsel for the petitioner in that O.A. the relief prayed for is only ~~for promotion~~ <sup>for promotion</sup> ~~or~~ to the post of Senior Accounts Officer whereas in the OA before us not only promotion has been sought but the quashing of the chargesheet which is coming in the way of his promotion has also been prayed for. The principal ground adduced for quashing the chargesheet is that there has been inordinate delay in issuing the charge memo. Secondly, the petitioner had been recommended for promotion to the post of Senior Accounts Officer vide OM dated 31.3.1993 whereas the alleged misconduct took place in 1983-1984. The award of the Arbitrator was published on 12.10.1987. The issue of the charge memo is, therefore, stated to be highly belated illegal and not sustainable.

We have considered the submissions made by the learned counsel for the petitioner. The charge memo was issued on ~~6.8.1993~~ <sup>6.8.1993</sup> ~~12.10.1987~~ after processing the same. The charges relate to 1983-84 when the petitioner was on deputation with D.D.A after the investigation was carried out and the explanation of the petitioner was called for which was tendered by him on 15.12.1990. Besides this the petitioner has already filed O.A. No.1444/93 which has been admitted.

In these circumstances, we do not see any pressing ground for quashing/setting aside the chargesheet. The petitioner would have full opportunity to defend himself in the course of disciplinary proceedings. The contention that the DPC had recommended

him for promotion earlier than the chargesheet was  
*on 6.8.1993*  
served, is not very germane, as the disciplinary proceedings were contemplated against him, as is apparent from the fact that the investigation was carried out and the explanation was called from the petitioner which was tendered by him on 15.12.1990. Merely because he was recommended for promotion by the DPC does not mean that he can in fact be promoted when his conduct is under cloud. Until the cloud is cleared he cannot get his promotion even though he has been recommended by the DPC. In view of the above facts and circumstances of the case the O.A. is dismissed at the admission stage itself. The petitioner, however, shall be at liberty to approach the Tribunal, if he is aggrieved by the final order passed by the respondents in the disciplinary proceedings, if so advised, in accordance with law.

*Sharma*  
(J.P. SHARMA)

Member(J)

San.

*Rasgotra*  
(I.K. RASGOTRA)

Member(A)