

117 (12)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.NO.2/93
M.A.NO.3605/94
M.A.NO.34/94

Hon'ble Shri Justice S.C.Mathur, Chairman
Hon'ble Shri P.T.Thiruvengadam, Member(A)

New Delhi, this 22nd day of March, 1995

Shri Lalit Bhatia, IPS
s/o Shri S.R.Bhatia
r/o 1-E, Model Town,
Govt. Colony
Patiala (Punjab)

.... Applicant

(By Shri V.P.Sharma, Advocate)

Versus

Union of India through

1. The Secretary,
Ministry of Home Affairs
Govt. of India
New Delhi.
2. The Director General
C.I.S.F., CGO Complex
Lodhi Road
New Delhi
3. The Chief Secretary
Govt. of Punjab
Chandigarh.

(By Shri N.S.Mehta, Advocate)

O R D E R (Oral)

Hon'ble Shri Justice S.C.Mathur, Chairman

The applicant, who is an officer of the Indian Police Service belonging to the Punjab Cadre, has in the instant application sought quashing of the Charge-sheet dated 16.6.1987. He is being proceeded against under All India Services (Discipline and Appeal) Rules, 1969.

2. After receipt of the chargsheet, the applicant submitted his reply on 17.8.1987. In this reply, he pointed out that various documents had been referred to in the

.....2/-

18

(2)

imputation of charges, copies of which had not been supplied to him. He asserted that for submitting an effective defence, he needed copies of these documents. He, however, filed a tentative reply denying the allegations levelled against him. It appears that some documents were subsequently supplied but not all, whereupon the applicant filed his reply in which he had again reserved his right to file additional reply after all the relevant documents were supplied. The disciplinary proceedings remained pending for more than five years and then the applicant approached the Tribunal for quashing of the chargesheet.

3. At the time of arguments, quashing of the chargesheet was sought on the following three grounds:

- i) It was vague;
- ii) Copies of relevant papers had not been supplied to the applicant despite demand;
- iii) Disciplinary proceedings had been unduly prolonged.

4. The learned counsel for the Central Government Shri N.S.Mehta pointed out that the grounds of vagueness and undue delay had not been raised in the application and the only ground raised in the application was that the relevant papers had not been supplied to the applicant.

5. We do find that the quashing of the chargesheet has not been sought on the ground of vagueness or on account of undue delay in finalisation of the proceedings. The relief

2

.....3/-

49

(3)
is claimed only on the ground that relevant papers were not supplied to the applicant which prevented him from putting in his effective defence.

6. In respect of Government's failure to supply to the applicant relevant papers, the learned counsel for the respondent could not offer any plausible justification. He simply submitted that Ministry of Home Affairs was not responsible therefore, as the papers were in the custody of the Central Bureau of Investigation (CBI). The learned counsel submitted that the responsibility of the Ministry of Home Affairs continued only till the initiation of the disciplinary proceedings and thereafter it was the responsibility of the Enquiry Officer to ensure supply of papers to the applicant. He pointed out that CBI was not under the Ministry of Home Affairs but was under the Ministry of Personnel. The learned counsel could not refute the submission of the applicants counsel that papers were not supplied despite orders of the Enquiry Officer.

7. We are unable to accept the submission of the learned counsel for the Government. The applicant is being proceeded against by the Central Government. Home Ministry and CBI are only agencies of the Central Government. When the Enquiry Officer directs supply of any paper to the applicant which is in the possession of any department of the Central Government, it is the duty of the Central Government to ensure compliance of the order. The Central Government whose position before the Enquiry Officer is that of prosecutor cannot absolve itself of this responsibility. The charged official whose position before the Enquiry

N

.....A/-

Officer is that of accused cannot be made to suffer on account of inter-departmental disputes or lack of coordination.

8. Learned counsel for the respondent is correct in submitting that chargesheet can be quashed only on account of inherent defects therein and not on account of failure to supply papers to the applicant. However, when a certain state of affairs is brought to the notice to the Court, the Court can mould the relief and grant one which is warranted by the facts of the case. Once we notice that the enquiry proceeding is not making any progress only on account of failure of the prosecutor to supply relevant papers to the applicant, we can quash the entire disciplinary proceedings of which chargesheet would only be a part.

9. Shri V.P.Sharma, learned counsel for the applicant stated that at the time the proceedings were initiated the applicant was holding the post of Superintendent of Police and he is now due for promotion to the post of Inspector General of Police. It is pointed out that his case for promotion was considered but the recommendation has been kept in a sealed cover on account of the pendency of the disciplinary proceedings. We cannot countenance of a situation where a person is denied promotion to the higher post for such a long period on account of pendency of a never ending disciplinary proceedings. It is the admitted case of the parties that despite enquiry of more than Seven Years not a single witness has been examined in the case.

.....5/-

Handwritten signature

(5)

10. In view of the above, while refusing to quash the chargesheet, we direct that the disciplinary proceedings shall be concluded within six months from the date a copy of this order is placed before the enquiry officer. If the proceedings are not concluded within that period, the disciplinary proceedings shall stand quashed. We also order that sealed cover may be opened and if the applicant has been recommended for promotion to the higher post, it may be granted to him on adhoc basis subject to the final outcome of the disciplinary proceedings. The applicant shall get Rs.1000/- from the respondents as costs. The OA is allowed to this extent.

P. J. An

(P.T. THIRUVENGADAM)
MEMBER(A)

S. C. Mathur

(S.C. MATHUR)
CHAIRMAN

/RAO/