

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 2707/93

(9)

New Delhi this the 20th day of November 1993

Hon'ble Shri K. Muthukumar, Member (A)
Hon'ble Dr. A. Vedavalli, Member (J)

Shri K.D. Bahuguna,
S/O Late A.D. Bahuguna,
R/O M-285, Govt. Quarters,
Sarojini Nagar,
New Delhi-110 023.

(By Advocate: Shri K.N. Bahuguna)

.....Petitioner

Versus

1. Govt. of NCT
through the Chief Secretary,
Union Territory of Delhi,
Old Secretariat, Delhi.
2. Director of Education
Old Secretariat, Delhi.
3. Deputy Director of Education
South District
Defence Colony, Delhi.

(By Advocate: Shri S.K. Gupta proxy for Shri B.S. Gupta)Respondents

ORDER (Oral)

By Hon'ble Shri K. Muthukumar, Member (A)

This petition is directed against the charge sheet issued by the respondents by their memorandum dated 21.10.93 alleging that the petitioner claimed a bogus L.T.C. for himself and his family members towards reported journey to Kanya Kumari and back. During 1981, the reported journey was stated to have been undertaken on 26.5.81 to 12.6.81 from Delhi to Kanya Kumari and back. The petitioner contests this charge-sheet as this is issued after a lapse of more than 12 years, and is also an arbitrary order. It is contested that the charge was also based on malafide consideration.

2. Learned counsel for the applicant submits at the Bar that in the case relating to the LTC claim the applicant was not directly involved and it was proceeded

h

10

against one Shri Ram Kishan, Stenographer, and in this case the applicant was asked to give evidence as he happened to be a passenger in the bus. The petitioner also has raised the question that on account of this belated charge-sheet, the applicant was also not considered for promotion which he had separately challenged in another OA 1622/93 as well as in this petition. The petitioner also contends that the respondents have issued a charge - sheet after soon after the notice on the other OA was issued and, therefore, submits that this would explain the respondents' conduct. Respondents' conduct was also based on malafide consideration. The respondents in their reply have admitted that the proceedings against the applicant were taken after 12 years but initiated after the investigation in this matter on the report of the Anti-Corruption Branch which gave adverse report of the applicant and on the basis of the recommendation of the Anti-Corruption Branch, the chargesheet had to be issued after collecting all the facts and evidence. As regards non-promotion of the applicant, they have submitted that the vigilance case was pending against him and, therefore, his promotion had to be held up.

3. When the matter was heard on 4.8.94, the Tribunal had directed the respondents to produce the file of the departmental proceedings relating to Ram Kishan's case and thereafter, the case was admitted. During the hearing of the case today learned counsel for the petitioner produced the final appellate order issued by the respondents. In the order it is seen that the Appellate Authority's order had set aside the order passed by the Disciplinary Authority against Ram Kishan. Learned counsel for the petitioner points out that from the appellate order itself it would be clear that the respondents are relying upon appellate order and, therefore,

W

(11)

the appellate authority order had come to the conclusion that the said enquiry had not been conducted properly and action was taken purely on the basis of the report of the Anti-Corruption Branch and the documents in the aforesaid case. In the light of this, counsel for the petitioner argued that the documents relied upon in that case were the same as in his case. Respondents had not conducted a review of the matter in the light of the order passed in Ram Kishan's case and pass appropriate orders whether to continue the charge-sheet in respect of the petitioner or not. The learned counsel for the respondents did not expect that the matter would be reviewed by the respondents suo-moto and prayed for appropriate orders in this behalf. In the light of these submissions, this OA is disposed of with a direction to the respondents to undertake the review of the case in the light of the order passed by the respondents in the case of Ram Kishan and on the basis of the facts and circumstances of the case of the petitioner and pass suitable orders in this behalf within a period of two months from the date of receipt of a copy of this order. If the applicant is still aggrieved by this order, it will be open to him to agitate the same through appropriate original proceedings in accordance with law.

4. The O.A. stands disposed of accordingly. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

cc.

K. Muthukumar

(K. Muthukumar)
Member (A)