

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

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OA No. 938/93 .. Date of decision: 23.07.93

Sh. J.D. Gupta .. Applicant

Versus

Union of India .. Respondents

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Hon`ble Sh. J.P. Sharma, Member (J)

Hon`ble Sh. N.K.Verma, Member (A)

For the applicant .. Sh. S.C. Jain, Counsel.

For the respondents .. Sh. M.L. Verma, Counsel.

J U D G E M E N T (Oral)

(Delivered by Hon`ble Sh. J.P. Sharma, Member (J))

The applicant, Shri J.D. Gupta has retired from service on 31.03.93, was served a memo of chargesheet in 1982. That charge sheet ended with the punishment of the applicant vide order dated 29.11.1983. The punishment was assiled in OA 738/86 which was admitted by the Principal Bench for hearing and also contested by both the parties. The Division Bench vide its order dated 14.11.91 quashed the punishment order and directed to the respondents to restore the applicant to the same position as he was before passing of the aforesaid punishment order. It was further stated that that if necessary, the respondents are free to serve a fresh charge sheet to the applicant. Further directed to the respondents to comply with the orders within a period of 3 months. The orders could not be complied within 3 months by the

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respondents and their request for extension of time was rejected vide order dated 05.03.83. The grievance of the applicant in this application is that a second charge sheet was served on him on 12.03.93 after the expiry of the 3 months period of the judgement passed on 14.11.91 so that this charge sheet is a nullity and illegal and prays that the charge sheet dated 12.03.93 and further disciplinary proceedings be quashed.

A notice was issued to the respondent to file reply. We have heard the learned counsel for the applicant. After considering the records and giving a careful and meaningful thoughts advanced by the learned counsel for the applicant Sh. S.C. Jain, we are not persuaded to accept the contention that the respondents cannot proceed with the memo dated 12.03.93 serving a fresh chargesheet with the applicant. The reason is that the applicant has not assailed the said grievance at the right time. He has submitted a reply dated 31.3.93 (Annexure A-7) in which he did not take the plea that the aforesaid chargesheet having been served by him after the expiry of the period also given liberty to have departmental action against the applicant. When the applicant himself has entered into the departmental proceedings and submitted his reply then he is estopped that the impugned memo of charge sheet was beyond the time allowed by the Tribunal.

Otherwise also the time is not an essence in such cases. In view of the fact, we find no merit in this

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application and the same is dismissed.

NK Verma 23.7.1993

(N.K. Verma)

Member (A)

J.P. Sharma

(J.P. Sharma) 23.7.93

Member (J)