

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

6

O.A. No. 1011/93
T.A. No.

199

DATE OF DECISION 04-10-1993

<u>Shri K.K.Arya</u>	Petitioner
<u>Shri D.C.Vohra</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India</u>	Respondent
<u>Shri N.S.Mehta.</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. N.V.KRISHNAN, VICE CHAIRMAN (A).

The Hon'ble Mr. B.S.HEGDE, MEMBER (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

**ORAL
JUDGEMENT**

(Hon'ble Shri N.V.Krishnan, Vice Chairman(A)

The applicant who is a member of the Indian Foreign Service Branch-B is presently working as Under Secretary in respondent No.1's office. He is aggrieved by the Memorandum of charges dated 24th April, 1992 (An.A) by which disciplinary proceedings under rule 14 of the CCS(CCA) Rules, 1965 have been initiated against him. The articles of charges make it clear that they relate to certain incidents in the year 1988. The applicant is charged with issuing a Customs Duty Exemption Certificate (CDEC) in favour of the Ugandan High Commission in New Delhi with the help of which the party concerned imported 37 air-conditioners duty free resulting in heavy loss to government; thus displaying lack of integrity, lack of devotion to duty and thus displayed conduct unbecoming as public servant.

2. These proceedings have been assailed in this O.A

on the ground of belated initiation and also that the charges are based on the FIR registered in 1988 against the applicant by the Respondent No.2 which is time barred for purposes of prosecution. The applicant has, therefore, prayed for the following two main reliefs:-

- "(1) An order by this Hon'ble Tribunal quashing its Memorandum dated 24-4-92 regarding the conduct of inquiry into charges which formed part of an FIR dated 12-9-88 registered by the Respondent/2 as the delayed issue of the charge sheet has vitiated the entire inquiry proceedings;
- (2) An order/direction by this Hon'ble Tribunal to the Respondent/2 to consign to records it FIR dated 12-9-88 because its cognizance by any Court is now time-barred under section 468(2)(c) of the Code of Criminal Procedure, 1973."

3. The respondents have filed a reply in which the reasons for issuing the Memorandum of charges in 1992 have been given as follows:-

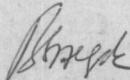
"CBI Investigation Report dated 13-12-90 was examined in the Department and sent to Central Vigilance Commission on 5-4-91 for their advice regarding initiation of disciplinary proceedings against the applicant i.e. the Charged Officer. CVC advice was received vide their O.M. No.DLI-EXA-4 dated June 3, 1991. The answering Respondent No.1 against addressed the CVC. CVC returned the case on Sept. 18, 1991 for some clarifications. It was sent back to CVC on 9-10-91 with clarifications."

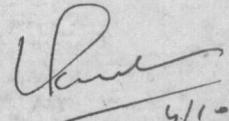
4. The case came up for admission today. Shri D.C.Vohra the learned counsel for the applicant submitted that in a case/even lesser delay, this Tribunal has quashed the charge sheet ATR 1986
CAT 405
(2) Tirlochan Singh Vs. UOI. He has also drawn our attention to the judgment of Supreme Court in Bani Singh's case 1991 (15) ATC 516. He contends that there is no justification, whatsoever, to have initiated the proceedings after considerable delay. The learned counsel for the respondents explained to us how the proceedings has been delayed.

5. We have heard the learned counsel and seen the reply from the respondents. We are satisfied that this is a case where the impugned Memorandum of charges cannot be quashed on the ground of inordinate delay in its issue, because, the reply given in para 4.3 by the respondents extracted above, satisfactorily explains the delay. In the circumstance, no case has been made out for consideration of the first relief.

6. The applicant has also prayed for the second relief extracted in para ~~2~~ given above. We are of the view that this relief cannot be considered or granted by us as it is beyond our jurisdiction.

7. In the circumstances, this application is liable to be dismissed. We notice that the Memorandum of charges was issued on 24th April, 1992 and it is now stated that the enquiry proceedings have recently started. We only hope that the respondents would try to complete the proceedings as expeditiously as possible. With this observation the application is dismissed.


(B.S. HEGDE)
Member (J).


4/10/93
(N.V. KRISHNAN)
Vice Chairman (A)