

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 28TH DAY OF MAY 2009)

Present

Hon'ble Mr. Justice A.K. Yog, Member (J)
Hon'ble Mrs. Manjulika Gautam, Member (A)

Original Application No. 1396 of 2001
(U/S 19, Administrative Tribunal Act, 1985)

Bidyanand a/a 33 years Son of Dr. U.P. Azad Posted as Telecom Distt.
Manager, Ghazipur.

..... Applicant

By Advocate : Shri S.K. Mishra

Versus

1. Union of India through Secretary Department of Tele Communication, Sanchar Bhawan, 20-Ashoka Road, New Delhi.
2. Bhart Sanchar Nigam Limited, Sanchar Bhawan, New Delhi through its Chairman.
3. The Chief General Manager, Telecom U.P. (East) Circle Lucknow.
4. The General Manager Telecom (EA), Varanasi.

..... Respondents

By Advocates : Shri S.C. Mishra
Shri Rajiv Mishra

connected order dt. 19-8-09-
allowing cancellation H.A. No 2648/09.
19/8/09
Mishra

ORDER

(Delivered by: Justice A.K. Yog, Member-J)

Heard learned counsel for the parties, perused the
pleadings and documents on record. Applicant, an Employee of
Department of the Tele Communication has filed present O.A.
claiming relief to quash order dated 22.11.2001/Annexure A-1

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compilation-I, passed by Respondent No.1 and order dated 23.11.2001/Annexure A-1A passed by Respondent No.3 as well as to issue a mandamus directing the Respondent to treat the applicant as continuing in service and other consequential reliefs.

2. Learned counsel for the Respondent makes a statement that this O.A. has been rendered infructuous in view of final order dated 11.12.2008 passed by the Tribunal in O.A No.1253 of 2008 (Bidyanand Vs. Union of India and Others) connected with 1254 of 2008, relevant Para-12, 13 and 14 of the said order read:-

“1253/08

12. Relevant facts emerging from the pleadings in this O.A., indicate that the applicant was served with another chargesheet dated 25.2.2005/Annexure-1. The applicant submitted his reply to the chargesheet on 15.4.2005 denying the charges leveled against him. In the instant case also, the first date of enquiry was fixed after a lapse of one year i.e. 25.02.2006. According to the applicant, he fully cooperated in the enquiry, but in spite of that the Enquiry Officer miserably failed to conclude the enquiry. According to the applicant, his case for promotion was considered, but the findings of the DPC have been kept in sealed cover on the ground of disciplinary proceedings. It is to be noted that Enquiry Officer failed to submit its report for more than two years and before he concluding the enquiry, again steps have been taken to issue another chargesheet by adding more charges. As noted above, applicant has filed O.A. No. 624/08 and respondents were required to complete the enquiry within 4 months. According to the applicant, Enquiry Officer has issued corrigendum of chargesheet dated 11.8.2008 with respect to alleged incident/ events pertaining to period of 12 years past. Enquiry has not been concluded and dates have been fixed one ground or the other. According to the applicant, directions of this Tribunal as well as other instructions of the Department to conclude the enquiry has been breach whereby applicant is suffering irreparably as he has been denied the benefit of recommendations of DPC on the pretext of the said enquiry. The applicant has again relied upon order passed in O.A. No. 403/2003-Smt. Babita Tyagi (supra).



13. We find that the entire 'enquiry proceedings' and the chargesheet/s suffer from 'bias' on record and deserve to be quashed. Accordingly, chargesheet/s dated 25.2.2005/Annexure-1 (O.A. No. 1253/08) and 11.9.2001/Annexure-2 (O.A. No. 1254/08) are liable to be set aside and O.A. deservers to be allowed.

14. In the totality of the circumstances as disclosed hereinabove, we are of the view that result of the DPC in respect of the applicant (kept in sealed cover), should be declared forthwith and accordingly the Respondent-Authorities Officers etc.-are hereby mandated to open the sealed envelop in question and give effect to the recommendations of DPC in accordance with law/relevant rules ignoring the pendency of enquiry till date, if any.

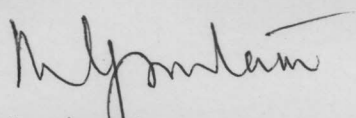
3. According to the respondents, once chargesheet and consequential enquiry having been quashed by this Tribunal vide aforequoted order dated 11.12.2008 in O.A. No.1258/2003, or consequential orders automatically fail and the cause of grievances for filing this O.A. becomes non existent,

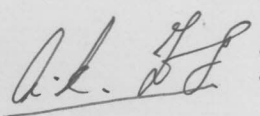
4. Learned counsel representing the Applicant informs that the Respondents have filed writ petition against aforementioned order dated 11.12.2008 in O.A. No. 1253 of 2008 (connected with 1254 of 2008) and it cannot be presumed that the respondents are not going to press this writ petition before High Court.

5. Accepting the statement of the learned counsel this O.A. is disposed of finally as infructuous with liberty to the Applicant to file a copy of this order in aforesaid pending writ petition before High Court for consideration.

By .

6. Impugned order dated 22.11.2001 is set aside. O.A. stands disposed of finally with a direction to the Applicant to approach and seek pursue 'remedy', if any required, before proper forum in future in accordance with the law including by joining the issue in the pending writ petition (If any) in High Court as agreed by learned counsel for the parties.


Member-A


Member-J

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