

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

ORIGINAL APPLICATION NO.716 OF 2004.

ALLAHABAD THIS THE 17TH DAY OF DECEMBER 2004.

Hon'ble Mr.Justice S.R. Singh, V.C.

Hon'ble Mr. D.R. Tiwari, A.M.

Chandra Pal Singh aged about 50 years, son of Sri Latoori Singh, Pharmacist, C.G.H.S Dispensary, Lekha Nagar, Meerut, Resident of 77. Purwa Karamat Ali, Kesarganj, Meerut City, Meerut.

.....Applicant

(By Advocate Sri Prahlad Khare)

Versus.

1. Union of India through Secretary, Ministry of Health and Family Welfare, Central Government Health Scheme (C.G.H.S.) New Delhi.
2. The Director, Directorate of Health Service, Nirman Bhawan, New Delhi.
3. The Joint Director, C.G.H.S 10-Soti Ganj, Meerut.

.....Respondents.

(By Advocate: Sri Saumitra Singh)

ORDER

Hon'ble Mr. Justice S.R. Singh, V.C

Heard Sri P.K. Khare learned counsel for the applicant and Sri S. Singh learned counsel for the respondents and perused the pleadings.

2. The applicant, a Pharmacist, while posted at CGHS, Meerut was placed under suspension vide order dated 12.07.1994 in contemplation of the Disciplinary Proceedings against him. It appears that on 11.7.1994 on physical verification 13 items of medicine were found short from the applicant's counter by Sri R.P. Sharma and Dr. Anil Kumar Senior Medical Officer. The suspension order was issued on the next date i.e 12.07.1994 in exercise of power under sub Rule (1) of Rule 10 of CCS (CCA) Rules, 1965. However, on 29.6.1995, the suspension order came to be revoked in exercise of power under

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clause (c) of Sub Rule 5 of Rule 10 of CCS (CCA) Rules 1965 with immediate effect and by order dated 2.2.1996 (Annexure 8) the period during which the applicant was placed under suspension from 12.07.1994 to 28.6.1995 came to be treated as duty for all purposes like leave, pension increment etc. Subsequently on 27/29.3.1996 a charge memo came to be issued for enquiry under Rule 14 of the CCS (CCA) Rules 1965.

3. The instant O.A. seeks issuance of a direction in the nature of mandamus commanding the respondents to drop the Disciplinary Proceeding pending against the applicant as time barred and to quash the impugned charge memo dated 27/29.3.1996. The main ground on which the impugned charge memo is sought to be quashed is inordinate delay that has taken place without any concrete steps toward finalization of the Disciplinary Proceeding. It has also been submitted by learned counsel that once the suspension was revoked and suspension period was treated as period spent on duty, it should be taken as if the Disciplinary Proceeding stood terminated.
4. For the respondents, it has been submitted that delay which has taken place in the Enquiry Proceeding, has been duly explained and, therefore, the impugned charge memo is not liable to be quashed on the ground of delay. It has been further submitted by learned counsel for the respondents that the order dated 02.02.1996 whereby the suspension period was treated as period spent on duty has been amended vide order dated 05.02.1998 which provides that the order dated 02.02.1996 was only a provisional order and matter would be reviewed in its own motion after the conclusion of the enquiry.
5. We have given our anxious consideration to the submission made across the bar.
6. In the case of H. Husain Khan Vs. State of U.P. and others, 1994 (2) S.L.R. page 365, the Disciplinary Proceeding was quashed by Division Bench of Hon'ble High Court on the ground that it was in respect of an incident which took place 10 years back and nothing happened even pursuant to the chargesheet. The Division Bench of Hon'ble High Court has placed reliance upon the decision of the Hon'ble Supreme Court in

769

State of Madhya Pradesh Vs. Bani Singh, 1990 (2) SLR 798 (S.C). In that case chargesheet was quashed on the ground that there was inordinate delay of 12 years in initiating the proceeding. In the instant case, as pointed out hereinabove, the charge memo was issued way back on 27/29.3.1996 and by order dated 14.05.2004 the applicant were required to attend in the enquiry into the charges framed against him. Though revocation of suspension does not stop a disciplinary authority to issue a charge sheet and initiate proceedings as pointed out in the office order dated 26.06.2003, a copy of which has been annexed to the O.A, in the fact situation of the case, the Disciplinary Proceedings are liable to be quashed on the ground that there was an inordinate delay. Initially one Dr. A.K. Agrawal, C.M.O. was appointed as enquiry officer who is said to have proceeded on Antarctica Mission, so enquiry came to be entrusted to Dr. Parmanand Khadwalia, C.M.O. by letter dated 12.03.2003. The delay that took place between the date of issuance of charge memo and 12.03.2003 has not been explained. In the circumstances therefore, we are of the view that the impugned Disciplinary proceeding is liable to be quashed.

7. Sri Saumitra Singh learned Senior Standing Counsel of Union of India has submitted that the O.A. is liable to be dismissed on the ground of delay. We are not impressed by the submission made by learned counsel for the respondents. Since the charge is sought to be quashed on the ground of delay and laches, the question of delay in approaching the Tribunal does not arise.
8. The O.A. succeeds and is allowed. The charge memo and Disciplinary proceeding pursuant thereto are quashed.


Member (A)


Vice Chairman

Manish/-