

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



No. O.A. 350/544/2020

Date of order: 26.11.2020

Present : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

RUDRA PRASAD CHATTERJEE
VS.
UNION OF INDIA & OTHERS

For the Applicant : In Person

For the Respondents : Mr. B. Bhushan, counsel

ORDER

Per Bidisha Banerjee, Judicial Member

The applicant in this O.A. has sought for the following reliefs:-

i) For an Order to quash/set aside the impugned orders being no.15-19(73)/2019-Vig. Dated 18.11.2019;

ii) To quash/set aside the consequential order(s) passed in the disciplinary proceeding;

iii) To direct the respondent authorities to transmit all the relevant papers in connection with the disciplinary proceeding being Memorandum and Article of Charges(I, II and III) no. RPC/02/2019-Vig. Dated 23-04-2019 before this Hon'ble Tribunal for apt adjudication of the instant application;

iv) And/or pass any order/orders as the Hon'ble Tribunal deems fit and proper."

The applicant has also sought for an interim order praying for the following relief:-

"Pending final decision on this Original Application the applicant prays for an interim relief as under:-

- to stay the operation of the impugned order dated 18.11.2019 passed by respondents;
- to stay operation of all the consequential order(s) passed by the respondents in connection with the impugned departmental proceeding being Memorandum and Article of Charges(I, II and III) being no. RPC/02/2019-Vig. Dated 23-04-2019;

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- c) Restraining the Respondent authorities to act in any manner to take and/or initiate any coercive action/steps against your applicant till disposal of the instant application;
- d) And/or pass any order/orders as the Hon'ble Tribunal deems fit and proper."

2. The applicant appearing in person and the Id. counsel Mr. B. Bhushan for the respondents were heard at length.

3. Order dated 18.11.2019 that has been assailed in the present O.A. is extracted herein for clarity:-

Council of Scientific & Industrial Research
Anusandhan Bhawan, Rafi Marg, New Delhi-110001

गोपनीय / द्रुत डाक
CONFIDENTIAL/
BY SPEED POST

No. 15-19(73)/2019-Vig.

Dated 18th November, 2019

Order

WHEREAS disciplinary proceedings were initiated against Shri Rudra Prasad Chatterjee, Scientist, CSIR-CMERI-CoEFM, Ludhiana under Rule 14 of CCS(CCA) Rules, 1965 vide CSIR-CMERI, Durgapur Memorandum No. RPC/02/2019-Vig. dated 23.4.2019.

AND WHEREAS Shri Mukund Sahai, Former Controller of Administration, CSIR has been appointed as Inquiry Authority to inquire into the charges framed against Shri Rudra Prasad Chatterjee, Scientist vide Order No. RPC/02/2019-Vig. dated 20.6.2019.

AND WHEREAS Shri Rudra Prasad Chatterjee, Scientist, CSIR-CMERI-CoEFM, Ludhiana has made an appeal dated 23.09.2019 alleging bias against Inquiry Officer, Shri Mukund Sahai, Former Controller of Administration, CSIR appointed in the disciplinary proceedings instituted vide memorandum No. RPC/02/2019-Vig dated 23.04.2019 under Rule 14 of CCS(CCA) Rules, 1965.

AND WHEREAS Shri Rudra Prasad Chatterjee, Scientist in his appeal dated 23.09.2019 has inter alia stated that Inquiry Officer has not addressed the objections raised by him on the grounds of - (1) Violation of Rule of bias in the said Inquiry proceedings; (2) Not providing the documents as sought in earlier emails which could substantiate the violation of rule of bias and prove the documents of the purported departmental charge sheet as Ultra Vires; and (3) No legible copy of the purported charge sheet has yet been provided even after several correspondences.

AND WHEREAS the undersigned has considered the documents on record and observe that biasedness has been alleged against the Inquiry Officer after more than four hearings in the disciplinary proceedings. I find that the Inquiry Officer at no point of time has refused or rejected the request of the charged officer to provide certain additional documents. Rather, in accordance with the rules and procedure, the Inquiry Officer has rightly requested the Charged Officer to provide the relevance of the documents sought, which has not been complied by the Charged Officer in order to enable the Inquiry Officer to take a decision. In respect of allegation against Inquiry Officer that legible copy of Charge Sheet and/or annexures has not been provided to him, I find that it is the responsibility of the Disciplinary Authority to provide legible charge sheet and/or annexures to the Charged Officer and the onus of providing the same cannot be put to the Inquiry Officer.

NOW THEREFORE the undersigned feels that the allegation of bias against the Inquiry Officer is unjustified and devoid of merit. Hence, his request cannot be acceded to.


(Shekhar C Mande)
Appellate Authority

Shri Rudra Prasad Chatterjee,
Scientist, CSIR-CMERI-CoEFM,
Ludhiana

4. The applicant appearing in person would vociferously plead alleging **bias against the Enquiry Officer that a bias petition against the EO should not be taken lightly** and that Hon'ble Apex Court observed in several cases that "whenever such allegation is raised against an Enquiry Officer, the Enquiry Officer deserves to be changed."

5. Per contra, Id. counsel for the respondents would submit that the order dated 18.11.1999 itself speaks why the applicant did not deserve a change of the Enquiry Officer as the allegations leveled by him were baseless.

6. In **Indrani Bai vs Union of India, 1994 SCC Supl. (2) 256** Hon'ble Apex Court observed that *"It is seen that right through, the delinquent officer had entertained a doubt about the impartiality of the enquiry to be conducted by the enquiry officer. When he made a representation at the earliest, requesting to change the enquiry officer, the authorities should have acceded to the request and appointed another enquiry officer, other than the one whose objectivity was doubted. Unfortunately, that was not done."*



7. In **Taj Mahal Hotel vs Industrial Tribunal-I & Ors. in WP(C) 2221/2000**, the Hon'ble Delhi High Court following the ratio of the decision in **Indrani Bai (supra)** held as under :

"16. It is almost impossible to so establish bias. It is sufficient if there is a real likelihood of bias or bona fide suspicion of bias or substantial possibility of bias. The likelihood of bias is to be looked into in the mind of the party and not in the mind of the inquiry officer. Even if the inquiry officer is impartial but if a right minded person would think, in the circumstances of the case, there was real likelihood of bias on his part, then the inquiry officer could not function as such and if he functions and renders the decision, that decision gets invalidated on the ground of bias. The Court will not inquire whether the inquiry officer, in fact, favoured one side unfairly. Suffice if a reasonable person would think that he did. The Supreme Court in Indrani Bai Vs. Union of India 1994 Supp. (2) SCC 256 has held that when a representation against the impartiality of the inquiry officer is made at the earliest requesting a change in the inquiry officer, the

authority should have acceded to the request and appointed an inquiry officer other than the one whose objectivity is doubted. That having not been done, the Supreme Court held the inquiry to be vitiated, reiterating that justice should not only be done but also be seen to be done.

20. Any discussion on "bias" would be incomplete without reference to *Ranjit Thakur Vs. UOI* AIR 1987 SC 2386. The test of likelihood of bias was held to be the reasonableness of the apprehension in that regard in the mind of the party. The Supreme Court quoted with approval, a passage from the judgment of the Queen's Bench to the effect that the question is not, whether in fact he was or was not biased - The court cannot inquire into that; public policy requires that in order that there should be no doubt about the purity of administration, any person who is to take part in it should not be in such a position that he might be suspected of being biased."

8. Having considered the ratio in *Indrani Bai (supra)*, we are of the considered opinion that it is imperative for the authorities to change the Enquiry Officer at the earliest opportunity since an allegation of bias has been raised against the Enquiry Officer and no reason has been furnished to the applicant showing how his apprehension of bias stands unsubstantiated.

9. Therefore, since the proceedings are yet to culminate into a final order on the guilt of the applicant, let a new Enquiry Officer be appointed to conduct and conclude the enquiry in accordance with law.

10. The O.A. accordingly stands disposed of. No order as to cost.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Baherjee)
Judicial Member