

Coram : Hon'ble Mr. P.H. Trivedi : Vice Chairman
Hon'ble Mr. P.M. Joshi : Judicial Member

6/12/1988

Mr.J.J.Yagnik learned advocate for the petitioner argued at length. ^{His contention is that} On account of the enquiry having taken place after about eight years and on account of the facts on the basis of which the charges are sought to be proved not being capable of recollection after a lapse of time, the enquiry cannot be held against him. Further that the disciplinary authority is acting with malafide intention against the petitioner and also that the documents listed at Annexure III on the basis of which the enquiry officer will report on the charges to be established against the petitioner are not being supplied to him. After hearing the learned advocate, we do not find that there is no reason to interfere in the cause of disciplinary proceedings on our part on the ground, made out by the petitioner. The enquiry officer is other than Mr.G.R.Nair against whom malafide has been urged and the petitioner is at liberty to urge the same in the cause of enquiry for consideration of the competent authority. So far as documents which are relied in support of memorandum of charges are concerned, the relevant rules governing the disciplinary proceedings require the copies thereof be supplied to the petitioner and if this is not done, the proceedings are liable to be vitiated and the result based thereon could be challenged on that ground. So far as lapse of time and the fact that while the charge sheets against higher officers were initiated and they were subsequently dropped according to the petitioner are now taken up against the petitioner are concerned, these grounds do not necessarily vitiate the initiation of the

enquiry and whether such lapse of time in the facts and circumstances of the case should stand in the way of imposing any penalty or adverse consequences upon the petitioner is a matter which can duly be considered by the disciplinary authorities. We, therefore, do not find any justification to grant relief to the petitioner in terms he has asked by issuing any notice for admission to the respondent.

In view of the above observations, learned advocate for the applicant seeks to withdraw the petition. Allowed. The case is disposed of as withdrawn.


(P.H.Trivedi)
Vice Chairman


(P.M.Joshi)
Judicial Member

a.a.bhatt