

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 107 OF 1993.
~~P.A. No.~~

DATE OF DECISION 6-7-1993

Shri Jethabhai Kachardas Patel, Petitioner

Mr. I.M. Pandya, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent s

Mr. Akil Kureshi, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

The Hon'ble Mr. M.R. Kolhatkar, Admn. Member.

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 ? ✗

Shri Jethabhai Kachardas Patel
Sub Divisional Officer Phones,
Junagadh,
O/o District Manager Telecom,
Junagadh.

.... Applicant.

(Advocate: Mr. I.M. Pandya)

Versus.

1. Union of India
Notice to be served through
The Director General
Department of Telecommunications
Sanchar Bhawan, Parliament Street,
New Delhi - 110 001.

2. Chief General Manager
Gujarat Telecom Circle,
Khanpur, Ahmedabad.

.... Respondents.

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

O.A.No. 107 OF 1993

Date: 6.7.1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

Heard Mr. I.M. Pandya, learned advocate for the
applicant and Mr. Akil Kureshi, learned advocate for
the respondents.

2. This application under section 19 of the
Administrative Tribunals Act, 1985, is filed by the
Sub Divisional Officer Phones, Junagadh against the
respondents seeking the reliefs as under:

"9. Relief(s) sought:

In view of the facts mentioned in para 6
above, the petitioner prays for the following
reliefs that the Honourable Tribunal be pleased
to :-

(A) Hold that there is inordinate delay in
holding the departmental inquiry against
the petitioner and therefore, the inquiry
is vitiated in as much as the incident is

of September, 1987 and the charge-sheet is issued on 20/8/1991.

- (B) Quash and set aside the departmental inquiry proceedings being held against the petitioner for the alleged incident of September, 1987.
- (C) Quash and set aside the order of appointment of Inquiry Officer and Presenting Officer at Annexure A. "

The case of the applicant as pleaded in the application is that the respondents passed an order dated 3rd August, 1992, Annexure A, for holding departmental enquiry against the applicant under Rule 14 of the CCS(CCA) Rules, 1965, when this applicant was holding the post of Sub Divisional Officer Telegraphs, Halol, Dist. Godhra and the Inquiry Officer was appointed by the authority. The applicant has produced at Annexure A-1, the memorandum of the charge sheet dated 22nd April, 1991. The Articles of charges against the applicant related to an incident that took place in September 1987 and the charges ^{are} that he failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Government servant and committed misconduct inasmuch as he being in collusion with S/Shri M.J.Shah and D.C.Patel, JET & Store Lineman respectively in the office of said applicant prepared a muster sheet related to work order No.179 dated 31st August, 1987 showing the names of S/Shri Ranjit Singh and Mangal Singh as casual labourers who were actually non-existing persons, and he further showed the disbursement of payment for the month of September 1987 to the said fictitious persons by getting forged

signatures prepared by a casual labourer Shri Inderji Mohd. Faraque, son of Shri Ismail Patel on the payment sheet and thereby contravened rule 3(1)(i), (ii) & (iii) of CCS(Conduct) Rules, 1964. The case of the applicant is that the respondents had lodged a complaint regarding this incident on September, 1987 before the C.B.I for the offence punishable under section 120B, 409, 467, 468, 471 & 477A of I.P.C read with Section 5(2) of Prohibition of Corruption Act, 1947. It is the case of the applicant that though the petitioner was called in connection with this complaint by C.B.I, department, ultimately the report was sent by C.B.I to the first respondent on or about 20th February, 1990 and no criminal proceedings has been initiated till today against the applicant. The applicant, therefore, reasonably believed that there is no prima facie case against him. The applicant has alleged in the application that the charges against him made by the department subsequently after about 4 years are absolutely baseless. The case of the applicant is that even after the report of the C.B.I on or about 20th February, 1990, the respondents took time for sending the charge sheet to the applicant. It is the case of the applicant that the applicant was even transferred to junagadh and his request for transfer to Baroda was rejected. The applicant has narrated in details about delay since the investigation by C.B.I and since charge sheet is issued against him. The

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applicant has given a formal reply denying the Articles of charge on 22nd August, 1991 vide Annexure A-2 and his grievance in the reply was that he could not give any defence in absence of the documents referred to in Annexure A-3 and the statements of witnesses stated at Annexure A-2. The learned advocate for the applicant submitted that there is an inordinate delay in issuing charge sheet to the applicant regarding the incident that took place in 1987, that the documents referred to in the Annexures are not given and that ^{after} ~~even~~ the reply ^{Ann.A-2 dt.22nd August,1991} given by the applicant to the charge ^{on 2nd August,1992} the Inquiry Officer was appointed ^{vide Annexure A} and the applicant was also denied the assistance of defence assistant. The learned advocate for the applicant submitted that the applicant is to retire on 30th September,1994 and the whole exercise ^{is} made by the respondents to harass the applicant. The learned advocate for the applicant submitted that the enquiry should be quashed or dropped because of inordinate delay and because of the grounds mentioned in the application.

3. The respondents have filed reply contending that after the examination of the SP/CBI's report, the ^{CVC} ~~CBI~~ decided to initiate RDA under Rule 14 on 27th December, 1989 and it was conveyed to Department of Telecommunication on 20th February,1990 and the charge sheet dated 23rd April,1991 was served on the applicant on 20th August,1991. The respondents have denied that there was

was inordinate delay by them as alleged. It is contended that the documents appended to the charge sheet are to be made available by the disciplinary authority to the Presenting Officer and the documents can be taken on the date of preliminary hearing itself.

4. The learned advocate for the applicant submitted that there was inordinate delay in this case and therefore, the enquiry should be dropped. He relied on the decision in Mohanbhai Dungarbhai Parmar V/s. Y.B. Zala & Anr., reported in 20 G.L.R, page 497 having regard to the wherein facts of that case, order of removal of the delinquent in that case from the service was quashed and set aside on the ground of being violative of principle of natural justice and on the grounds mentioned in the judgment. It was a peculiar case in which an employee was charge sheeted on the ground that he being late on particular date 1½ years back, before the disciplinary proceedings was taken and therefore, the question was whether the delay of 1½ years to initiate disciplinary proceedings by itself constituted denial of reasonable opportunity to defend and violative of principles of natural justice. In the instant case, no doubt, the enquiry related to an incident that took place in August 1987 but then the enquiry was entrusted to the C.B.I which had already registered R.C

being R.C.No. 20/88. The case of the applicant is that he was called by the Inspector C.B.I in

December 1988 but thereafter he was not called by the C.B.I and according to him, the report was submitted to the first respondent on or about 20th February, 1990. The explanation has been furnished by the respondents about the time lag between 1988 to 1990, but there is some delay in issuing charge sheet thereafter. However, this is not a case of such a gross delay where we should quash the enquiry proceedings, because the facts mentioned in the judgment of the High Court are completely different ^{than} / the facts of this case. The other decision relied by the learned advocate for the applicant is William A. Vyas V/s. The District Supdt., of Police & Anr. SCA No. 2166 of 1979 decided by the High Court of Gujarat on 27th August, 1986. We have perused the decision and the facts involved were completely different than the facts in this case and ~~the~~ therefore the said decision does not help the applicant. We have examined all the grounds in the application and though we feel that there is ^{certainly} / a delay ~~definitely~~ in this case in starting disciplinary proceedings against the applicant, this is not a case ^{of} / such a gross delay that the enquiry proceedings should be quashed. The nature of charges involved in this case are also to be taken into consideration. However, the fact is that the applicant is to retire on 30th September, 1994 and he would not like to see the sword of disciplinary proceedings hanging upon him till his last date of service. The respondent No.1 should ^{not} / make any further

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delay in completing departmental proceedings.

5. The learned advocate for the applicant has shown to us the instructions issued by the Dy. Director General (Vig.) dated 6th February, 1985 to the department for expeditious disposal of disciplinary cases which ^{with} deals ~~the~~ time limit for disposal of disciplinary cases and considering the said instruction the disciplinary proceedings should be completed within 10 months from the issuance of charge sheet. No doubt these are the departmental instructions but the department should as far as possible follow these instructions. Having taken into consideration all the factors, we are of the opinion that the respondents should be directed to complete the enquiry within six months from the receipt of the order of this Tribunal. We see no ground to quash the enquiry proceedings. All the submissions made by the learned advocates for the parties are considered by us and hence we pass the following order.

ORDER

The respondent No.2, Chief General Manager Gujarat Telecom Circle Ahmedabad is directed to see that the departmental enquiry in this matter against the applicant is completed within six months from the receipt of the order of this Tribunal. It is hoped that the applicant also will assist the department for

expeditious disposal of the enquiry and if the respondent No.2 fails to complete the enquiry against the applicant within the stipulated period, it would be open to the applicant to approach the Tribunal according to rules. The application is disposed of accordingly with no order as to costs.



M.R. Kolhatkar

(M.R. Kolhatkar)
Member (A)

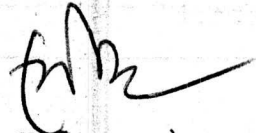

R.C. Bhatt

(R.C. Bhatt)
Member (J)

vtc.

Date	Office Report	Order
18-2-94		<p>Bar Association has resolved to abstain from work as a measure of condolence on the death of Mr.Chimanbhai Patel, Chief Minister of Gujarat State, adjourned to 07-3-94.</p> <p style="text-align: right;">12 (K.Ramamoorthy) Member (A)</p> <p>As the ^{other} learned Member of the Bench is not available, the matter is adjourned to 15/3/94.</p>
7-3-94		<p style="text-align: right;">K. RAMAMOORTHY MEMBER (A)</p> <p><u>M.A. 80/94</u></p>
15-3-1994		<p>Mr. Pandya does not object to extension being granted. Extension of time to complete inquiry granted till 2-5-1994. No further time will be given. M.A. stands disposed of accordingly.</p> <p style="text-align: center;">  (K. Ramamoorthy) Member (A)  (N.B. Patel) Vice Chairman </p>

M.A.270/94 in O.A. 107/93

Date	Office Report	Order
29-6-94		<p>Mr. I.M. Pandya for the applicant states that since the applicant is to retire in September, the matter be disposed of within one month. Counsel for the respondents undertakes to communicate the anxiety of the applicant to the department, & will endeavor to communicate decision well in time. Hence M.A.270/94 is disposed of.</p> <p> (Dr. R.K. Saxena) Member (J)</p> <p> (K. Ramamoorthy) Member (A)</p> <p>vtc.</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. 07/107/93 of 19

Transfer Application No. _____ Old W. Pett.No

CERTIFICATE

Certified that no further action is required to be
taken and the case is fit for consignment to the
Record Room (Decided)

Dated : 23/07/93.

Countersigned :

^{28c}
Signature of the Dealing
Assistant

CPM/Gr 17/8/93
Section Officer/Court officer

Dr. Raval
13-7-94

INDEX SHEET

NAMES OF THE PARTIES J. K. Patel

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