

# CENTRAL ADMINISTRATIVE TRIBUNAL

## AHMEDABAD BENCH

**O.A. NO.** 432/93

**~~T.A.~~ NO.**

**DATE OF DECISION** 6.9.1994

J.S. Bindra, IPS

Petitioner

Mr.S.Tripathi & Mr.P.B.Sharma

Advocate for the Petitioner (s)

**Versus**

Union of India & others

Respondent

Mr.D.A .Bambhanja

Advocate for the Respondent (s)

**CORAM**

The Hon'ble Mr. N.B.Patel

: Vice Chairman

The Hon'ble Mr. V.Radhakrishnan

: Member (A)

### JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No.

J.S.Bindra, IPS  
Addl. Director General of Police,  
posted as Director, Civil Defence  
& Commandant General Home Guards,  
Gujarat State, Lal Darwaja,  
Ahmedabad.

.. Applicant

(Advocate: Mr. S. Tripathi)  
Mr. P.B. Sharma)

Versus

1. The Union of India  
Through:  
the Secretary to the Government  
of India, Ministry of Home  
Affairs, New Delhi).
2. The State of Gujarat  
Through:  
the Addl. Chief Secretary  
to the Government of Gujarat,  
Home Department, Sachivalaya,  
Gandhinagar.

.. Respondents

(Advocate: Mr. D.A. Bambhania)

ORAL JUDGMENT

O.A. No.432/1993

Date : 06-09-1994

Per : Hon'ble Mr.N.B.Patel : Vice Chairman

Normally, we do not interfere with the continuation of departmental enquiry and are extremely loath to quash a charge-sheet and consequent departmental enquiry. The present case, however, is an extremely rare case in which we feel that the respondents should not be allowed to proceed with the enquiry pursuant to the charge-sheet dated 27.4.1981, because not allowing them to continue to proceed with the enquiry will be in public interest and will also be necessary to safeguard the interests of the applicant.

2. The facts of the case, briefly, are that the applicant, who is at present occupying the post of Additional Director General of Police of the State of Gujarat and who is due to retire on 30th September, 1994, is served with a charge-sheet as early as on 27.4.'81 charging him with delinquency in respect of some purchases approved by <sup>the</sup> Purchase Committee of the Civil Defence Organisation which he was heading in December 1971. The applicant was then <sup>a</sup> member of junior IPS cadre and was posted as Deputy Director of Civil Defence Organisation which was very much active in those days in view of the Indo-Pak war of 1971. It is alleged that the Purchase Committee, headed by the applicant, had accepted quotations for purchase of certain items and, in doing so, the committee, it is alleged, had not adhered to certain rules in the matter of accepting quotations. The allegation is that, as a result of this, the Government had suffered a loss of Rs.5000/- or more in connection with some of the items of purchases.

3. Though the event for which the applicant has <sup>occurred</sup> come to be charge-sheeted <sup>in</sup> November or December 1971, a charge-sheet for major penalty was, for the first time, furnished to the applicant 5 years afterwards, to be precise, on or about 4-12-1976. The actual enquiry in effect was proposed to be started with the appointment of a Board of Enquiry as late as on 16-7-1993. On 19-7-1993, the applicant has filed the present O.A. and the bench, which dealt with this case at earlier stages, has granted interim relief restraining the respondents from proceeding further with the enquiry.

Nothing more has happened in the course of the enquiry except that the applicant had earlier filed his statement of defence. Effectively speaking, therefore, the enquiry for the event, which occurred in 1971, has started in July 1993. The question is whether the enquiry should be allowed to be proceeded with after such inordinate or gross delay. It may not be necessary for us to do anything more than to reproduce the chronology of events, as submitted by the learned Solicitor to the Government of Gujarat and taken on record as (Annexure R-1), as the said chronology is by itself sufficiently eloquent to clearly establish that there is hardly any explanation for allowing the enquiry to be started after a lapse of more than 20 years from the event in question. The chronology of events, as submitted on behalf of <sup>the</sup> State Government, reads as follows :

1. 4.12.76 Shri J.S. Bindra was serving as Deputy Director, Civil Defence Organisation, a purchase committee headed by Shri Bindra purchased Bamboo ladders, Tarpulin, Iron Chain, Rubber gloves, Red Hurricanes etc. items. The irregularities were observed in the purchase of the said items. Hence, a charge sheet was served upon Shri Bindra as to why Major Penalty should not be imposed for the irregularities committed by him during November-December 1971 Indo-Pak War.



2. 18.1.77 Shri Bindra submitted his preliminary defence statement.
3. 28.3.77 Shri Bindra's preliminary defence statement was examined and put up to Head of the Administrative Department.
4. 4.5.77 The matter was discussed with officers of Investigation Agency. The discussion was not over.
5. 6.5.77 The Head of Department fixed the date and time to further discuss the matter with A.C.B.
6. 24.5.77 This was discussed by the then Head of Administrative Department in a meeting with A.C.B. Officers.
7. 23.6.77 A detailed note submitted after discussion with A.C.B.
8. 12.8.77 It was decided to get certain information from C.D.O. and letter issued on the same day.
9. 7.10.77 Director, Civil Defence submitted his detailed report to Govt.
10. 25.10.77 A note submitted after examining the C.D.O.'s report.
11. 5.12.77 The Head of the Administrative Deptt. has returned the pps with instructions that he would like to see draft charge sheet in a complete stage duly vetted by A.C.B. officers.
12. 8.12.77 Head of Administrative Department approved suggestion of the then D.S.(H) to get factual report on certain points from the A.C.B. Officers.
13. 23-12-77 ACB officers submitted their report to Department.
14. 28.9.78 The detailed report of ACB was examined and submitted at the highest level of the Department.

15. 29.11.78 The head of Administrative Deptt. asked to submit alongwith certain papers.
16. 8.6.79 Papers submitted by the highest authority of the Department to the Government.
17. 10.10.79 Considering all the details/papers a decision was taken at the level of highest authority of the State that if the charges are proved, Shri Bindra be awarded Minor Penalty.
18. 19.2.80 A propbsal sent to UPSC, New Delhi for its advice.
19. 18.6.80 UPSC advised that without holding regular Departmental Proceedings, the Minor Punishment could not be imposed upon, as a Charge-sheet was already served for Major Penalty. UPSC recommended to hold regular departmental proceedings against Shri Bindra.
20. 7.9.80 The papers referred to GAD for advice.
21. 15.9.80 GAD advised that if Shri Bindra is agreeable to be satisfied with the opportunity already availed of by him and is prepared to say so, the matter could be pursued with the UPSC again for not insisting on a detailed inquiry being held against him.
22. 13.11.80 As Shri Bindra could not be contacted in view of G.A.D.'s advice a decision was taken to take action under Rule-10 of AIS(D&A) Rules, 1959.
23. 30.1.81 File resubmitted to issue fresh charge sheet to Shri Bindra.

24. 6.2.81 Administrative head returned it for discussion.
25. 26.2.81 Case resubmitted for approval of draft of the revised Charge-sheet to be served upon to Shri Bindra and three other delinquents.
26. 15.4.81 All draft charge-sheets approved. Then, typed, etc.
27. 27.4.81 Charge-sheet for minor penalty issued.
28. 14.9.81 Copies of documents supplied to Shri Bindra.
29. 10/81 to 6/82 Shri Bindra requested to see the documents personally by his letter dt.5.10.81. During this period, the other delinquent's defence statements were received which were examined and decision taken to hold regular departmental inquiry.
- Shri Bindra has been informed by letter dt.31.3.82 and 6.5.82 to come and see the documents in the Department. Instead of coming, Shri Bindra repeatedly requested by his letter dt.11.5.82 to supply copies of other irrelevant documents.
- Govt. informed Shri Bindra by letter dt.20.5.82 that Shri Bindra has no interest to see the original records personally and Shri Bindra is also informed by letter dt. 25.6.82 that documents asked by him were irrelevant and copies of relevant documents have already been supplied to him earlier.
30. 13.7.82 Bindra again asked for copies of irrelevant records.

31. 30.8.82 As Shri Bindra did not turn up to see the original documents in the Department, considering his earlier defence statement, a detailed proposal submitted to the highest authority of the State for decision in respect of Shri Bindra and others.
32. 23.9.82 A decision taken at the level of the highest authority of the State to consult the UPSC for awarding minor punishment as per the earlier decisions to censure Shri Bindra.
33. 5.10.82 A note put up to call for the information about pay-scales etc. from IPCL, Baroda regarding Shri Bindra.
34. 8.10.82 A letter issued.
35. 30.10.82 Details received from IPCL, Baroda
36. 8.11.82 Papers submitted for approval to send the proposal to the UPSC.
37. 30.11.82 A proposal sent to UPSC, New Delhi for its advice.
38. 19.3.83 UPSC advised to get legal opinion as to whether the act of the State Govt. is valid with reference to the sustainability of fresh charge-sheet for minor penalty as the charge-sheet for major penalty served earlier.
39. 1.6.83 to 1986 Case referred to Legal Department for opinion. Relevant files withdrawn from Legal Deptt. for finalising the cases of two co-delinquents then again referred to Legal Deptt. for opinion.
40. 30.9.86 Legal Department opined that a second charge-sheet served upon Shri Bindra was legal and valid.



41. 1987-88 A statement prepared giving details of position of departmental enquiry cases against all the ten officers involved in this case in a prescribed proforma as suggested by Gen. Admn. Department and linked cases submitted to the highest authority of the State.
42. 16.9.88 The papers submitted for getting orders to send the proposal for advice to UPSC, New Delhi.
43. 3.12.88 The proposal was approved by the Highest authority of the Department.
44. 23.12.88 . Papers sent to GAD for his consent.
45. 24.4.89 Since Shri Bindra is an IPS Officer, Deputy Secretary, GAD/Enquiry ~~Offx~~ Cell advised to submit Shri Bindra's case to Deputy Secretary/Service matter in G.A.D.
46. 26.5.89 Bindra's case sent to G.A.D./Service branch.
47. 4.6.89 A decision taken at Chief Secretary level to follow the procedure laid down under A.I.S.(D&A) Rules, 1969.
48. 1989-90 Papers were scrutinised and a detailed note put up on 4.12.90 to send a proposal to UPSC, New Delhi.
49. 15.12.90 A decision taken at the level of Highest authority of the Department to provide the copies of additional documents asked by Shri Bindra.
50. 8.4.91 Papers resubmitted for order for referring the case to the UPSC and also for obtaining consent not to supply additional documents to Shri Bindra at this stage.

51. 20.4.91 A decision taken to supply additional documents to Shri Bindra and asked him to submit his defence statement.
52. May-Dec. 1991 The additional documents which were sought for by Shri Bindra were traced from bulky records relating to this inquiry after a long exercise, documents were xeroxed, typed etc.
53. 10.1.92 File submitted alongwith necessary draft to supply copies of the documents to Shri Bindra.
54. 17.1.92 Draft approved at the level of higher officer of the Department.
55. 23.1.92 Copies of certain additional documents provided to Shri Bindra.
56. 21.2.92 Shri Bindra asked for 3 months' time to submit his defence statement.
57. 21.3.92 Shri Bindra's request granted
58. 22.6.92 Instead of submitting the defence statement, Shri Bindra represented to close the Departmental Enquiry against him.
59. 01.10.92 As per oral request of Shri Bindra, copy of proceedings dt.11.11.71 was given to him.
60. 1.10.92 Shri Bindra submitted his statement of defence after verification of the relevant record.
61. 15.10.92 Papers submitted after examining the defence statement of Shri Bindra for taking decision through G.A.D.
62. 23.10.92 The papers submitted to G.A.D.
63. 29.11.92 Decision taken to hold regular departmental inquiry at the level of the highest level of the State.

64. 7.6.93 The proposal submitted for approval for constituting the Board of Enquiry.
65. 25.6.93 A decision taken to constitute the Board of Inquiry of two members.
66. 5.7.93 Draft Memorandum put up for constituting the Board of Inquiry and proposal submitted for the name of presenting Officer.
67. 8.7.93 Above proposal was approved.
68. 16.7.93 A Board of Inquiry was constituted to enquire into the allegations against Shri Bindra.
69. 17.7.93 The following drafts were put up for approval with fair copy for approval and signature.
- (i) A copy of order constituting the Board of Inquiry to be sent to Govt. of India.
  - (ii) Draft order appointing Presenting Officer.
  - (iii) Copies of necessary documents to provide the Members of the Board of Inquiry.
70. 18.7.93 Above three drafts were approved and signed.
71. 19.7.93 Order has been issued appointing Presenting Officer to present the case on behalf of the Government.

4. Before pointing out the long spells of delay between certain stages in the course of the final decision to appoint the Board of Enquiry, it may be pointed out that it is admitted on behalf of the Government ~~Section~~ that since the event of 1971, for which the applicant is charged, the applicant has earned four promotions to the highest ranking posts in the



hierarchy of the Police Department. He now occupies one of the highest posts in the state Police Department, namely, the post of Additional Director General of Police. It is also to be kept in view of that he is to retire at the end of this very month i.e. on 13th September, 1994.

5. Reverting to the chronology of events submitted by the learned Solicitor to the Government of Gujarat, it requires to be noted, first, that there is no explanation for the delay of five years between 1971 and 1976 when, for the first time, a charge-sheet was served on the applicant and he was called upon to show-cause as to why major penalty should not be awarded to him for the irregularities committed in 1971 by the Purchase Committee which he was heading. To this charge-sheet, the applicant had submitted his statement in defence on 18.1.1977 and the matter lingered <sup>on</sup> in different departments of the Secretariat and, in fact, on 10.10.79, a decision appears to have been taken at the highest level that even <sup>if</sup> charges are accepted by <sup>the</sup> Shri Bindra, <sup>of</sup> he might be awarded <sup>the</sup> minor penalty <sup>of</sup> After this decision which was taken in October 1979, a proposal was sent to the UPSC on 19-2-80 and, in June 1980, the UPSC advised that even for awarding minor punishment, a regular enquiry was required to be held. From 7.9.1980 onwards, the file again travelled from the Home Department to the General Administration Department and it was tried to be ascertained whether Shri Bindra was agreeable to accept a minor penalty. It is however said, at item No. 21 of the chronology, that the applicant

Shri Bindra could not be contacted. It passes our comprehension as to how such a high ranking Officer could not have been contacted. Be this as it may, the file was resubmitted on 13.1.81 "to issue a fresh charge sheet". Thereafter also, almost nothing happened till 27.4.1981 when the fresh charge-sheet for <sup>a</sup> minor penalty was issued. It is this charge-sheet which is challenged by the applicant Shri Bindra in the present case. It is not understood as to why a fresh charge-sheet for minor penalty was required to be issued though a major penalty charge-sheet was already issued earlier after a long delay. Even if the major penalty charge-sheet was kept in force and ultimately a minor penalty was awarded, nobody could have challenged the legality of the order on the ground that minor penalty could not have been awarded when a major penalty charge-sheet was issued.

Between October 1981 and June 1982, the matter stagnated, because the applicant was asking for certain documents or inspection of certain documents and, on 25.6.1982, he was informed that the documents asked for by him were irrelevant and copies of relevant documents were already supplied to him earlier. The applicant persisted with his demand for additional documents, but it is said that he himself had failed to turn up to take inspection of original documents and thereafter, on 30th August, 1982, a detailed proposal was submitted to "the highest authority of the State" for taking a decision in the matter.

We do not understand as to why "the highest authority of the State" was required to be approached at this stage for taking a decision in the matter. Anyway, it is stated that, on 23.9.1982, decision was taken at the said highest level to consult the UPSC "for awarding minor punishment" as per the earlier decision to censure Shri Bindra." It is some-what strange to note that thereafter, on 5.10.1982, a decision was taken to call for information about the pay-scales etc. of the applicant who then appears to be working in the IPCL, Baroda. These details were received on 30.10.'82 and proposal was again sent to UPSC seeking its advice in the matter on 30.11.1982. The papers were sent back by the UPSC some five months afterwards, i.e. on 19.3.83, advising the State Government to obtain the opinion of its Legal Department in the matter. The case was referred to the Legal Department on 1.6.1983 and, ultimately, opinion was received from the Legal Department after three years on 30th September, 1986. It appears that for some time, during this intervening period of three years, the papers were called back from the Legal Department. Again, on 16.9.1988, the papers were submitted to "the highest authority of the department" for getting orders to send a proposal for advice to the UPSC. This was done presumably because the Legal Department had opined that there was <sup>no</sup> illegality in issuing the second charge-sheet dated 27.4.1981. It is said that papers were sent to the Deputy Secretary, G.A.D., on 23.12.1988 with this proposal but they were returned to the Home Department after about four months on 24.4.1989, requiring the Home Department to submit the papers to the Deputy Secretary, in-charge of Service matters in the G.A.D. It is not understood as to why ~~the~~




the Deputy Secretary of the G.A.D. to whom papers were earlier sent on 23.12.1988 could not directly send the papers to the Deputy Secretary, G.A.D. itself who was dealing with ~~the~~ service matters. This shows the highly indifferent manner in which the file was dealt with. On 4.6.1989, a decision was taken at the level of the Chief Secretary to hold a regular enquiry and on 15.12.1990, a decision was taken to furnish copies of the additional documents asked for by Shri Bindra. Again on 8.4.1991, papers were resubmitted for orders for referring the case to the UPSC and also for obtaining approval of "the highest authority" for the decision not to supply copies of additional documents to the applicant Shri Bindra. However, a decision was taken on 20.4.1991 to supply copies of additional documents to the applicants as asked for by him. It took five months from May to December 1991 to trace out original documents of which copies were to be furnished to applicant. It is stated that a period of five months was taken for this purpose, because the documents were to be traced "from bulky records" relating to this enquiry. It is stated that a long exercise had to be undertaken to trace the documents. We may pause here and point out that the very fact that the department itself took five months to trace the required documents from the bulky records would indicate as to how difficult it would be for the delinquent to effectively meet a charge against him for an event which occurred some 23 or 24 years back. Ultimately, it appears, copies of additional documents were furnished to the applicant on 23.1.1992 and on 21.2.1992 the applicant asked for three months' time to submit written statement of his defence and the


period of three months appears to have been readily granted to him. One month period was taken for considering the request of the applicant to grant three months' time to submit his defence statement and it was on 21.3.1992 <sup>the</sup> that said request was granted. It is true that the applicant, instead of filing his defence statement, then represented that the departmental enquiry itself may better be closed. This request of the applicant did not find favour with the authorities and the applicant submitted his statement of defence on 1.10.1992. The papers alongwith the statement of defence submitted by the applicant were again sent to the G.A.D. on 23-10.1992, and on 29-11-1992, a decision was taken to hold regular departmental enquiry. It is said that this decision was taken at the "highest level of the State". We do not understand as to why such a decision was required to be taken again. Anyhow, the decision was taken on 29.11.1992 and about six/seven months thereafter, i.e. on 7.6.1993, a proposal was made for constituting <sup>a</sup> Board of Enquiry. Ultimately on 16.7.1993, the Board of Enquiry was actually constituted and on 19-7-1993, some officer was appointed as Presenting Officer and it is thus in July, 1993 that life was again tried to be put into a matter which was lying dormant since long. It is after this that the applicant has approached this Tribunal with a prayer that the charge-sheet and enquiry be quashed.

6. As we have mentioned at the outset, we find that here is an extremely rare case where we are constrained to quash an enquiry. There has been a

gross delay of about 20 years in effectively taking up the enquiry after the event and, though some part of the delay may be attributable to the applicant, the inordinate delay which has occurred in the department is far from convincingly explained. Much of the tossing of the file appears to be totally uncalled for. The result of the delay is bound to operate adversely against the applicant in the matter of effectively defending himself against the charge. Coupled with these are the facts that the applicant has since been promoted to the highest post in the Police Department of the State and is due to retire within a few days. We are constrained to observe that it will not be in public interest but actually against public interest to proceed further with the enquiry. In coming to this conclusion, we have also taken into consideration the fact that some irregularities were committed in purchasing certain articles for the Civil Defence Organisation during the Indo-Pak War in 1971. We have also taken a note of the fact that there is no element of personal aggrandisement in the charge which is levelled against the applicant.

7. For the reasons stated above, we allow the application and quash and set aside the impugned charge sheet dated 27.4.1981 and direct the Respondents to close the chapter. No order as to costs.

  
(V. Radhakrishnan)  
Member (A)

  
(N.B. Patel)  
Vice Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

Application No. 02/1432/93 of


Transfer Application No. \_\_\_\_\_ of

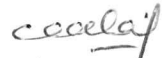
CERTIFICATE

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

Dated : 25.11.94

Countersign :

  
Section Officer

  
Signature of the Dealing  
Assistant



# INDEX SHEET

VERSUS

60. 1. 800

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