

ORDER DATED 21-03-2002.

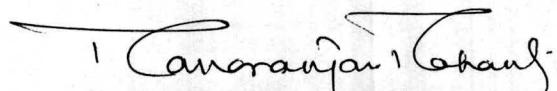
Applicant, an Assistant Engineer of All India Radio, having faced a charge-sheet during April, 2000, has approached this Tribunal in the present Original Appl. His case is that the charge-sheet, in Annexure-8, has been drawn against him malafide in order to throttle his next promotion. In the charge-sheet, under Annexure-9, he has been charged for certain allegation of the year 1987-88. Thus, the charge-sheet is grossly delayed by 12 years after the alleged incident. The Advocate for the Applicant has drawn our attention to a decision of the Apex Court of India reported in AIR 1998 SC 1833 in the case of STATE OF ANDHRA PRADESH vrs. N. RADHA KRISHNAN. In the said case, the Apex Court has held that where charge-sheet has been filed relating to an incident of ten years old, in the absence of any explanation that should be quashed and while doing so, the Courts and Tribunals, should take a decision on the facts and circumstances of each case. In the present case, the Applicant while discharging the duties as an Asst. Engineer at Silchar during the financial year 1987-88 under-took certain constructions (which includes construction of 32 numbers of quarters) did not obtain prior administrative sanction. It is the case of the Applicant that the work was undertaken within the knowledge of his superior authorities and later, the money has been released ^{with} _{post facto} approval. Without going deep into the matter, we are of the prima facie view that when post facto approval/sanction

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has been made, an incident of 12 years back, ordinarily, should not have been re-opened and, therefore, smacks of mala fide in drawal of the charge-sheet, ^{especially} when the applicant is at the door step of being considered for promotion. In the counter filed by the Respondents, no attempt has been made to give an explanation as to why there was a delay in drawal of the charge-sheet after a lapse of 12 years. Having heard counsel for the parties, we are satisfied that the delay should be the reason to set aside/quash the charge-sheet, under Annexure-9; and which we do accordingly.

2. In the result, therefore, the Original Application is allowed in terms the directions made above. No costs.


(M.P. SINGH)
MEMBER (ADMN.)


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL) 21/03/2002

KNM/CM.