

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

M.A. No.354 of 1998
M.A. No.468 of 1997
C.P.C. No.170 of 1995
(O.A. 436 of 1996)

Present: Hon'ble Mr. D. Purakayastha, Judicial Member
Hon'ble Mr. B. P. Singh, Administrative Member

UNION OF INDIA & ORS. (C.L.W.)

VS

NIRMAL KUMAR SINGH

For the Applicants : Mr. R.N. Das, counsel
Mrs. Uma Bhattacharyya, counsel

For the Respondents/OP : Mr. B.C. Sinha, counsel

Heard on 3.12.1998 : : Date of order: 3.12.1998

O R D E R

D. Purkayastha, JM

Both the MAs bearing No.354/98 and 468/97 are taken up together for orders. Both the applications were filed by the seeking Departmental respondents ~~for~~ extension of time for conclusion of the D.A. proceeding, since they could not complete the departmental proceeding within 6 (six) months as ordered by this Tribunal on 10.6.97 in M.A. No.254/96 with OA 436/96. According to the respondents six months would have expired in December, 1997 and accordingly they filed an application MA 468/97 on 4.12.97 for extension of time for four months after expiry of December, 1997. Thereafter MA 354/98 has been filed amending the relief sought for in the earlier MA 468/97 and it is prayed in the MA 354/98 that the respondents be granted another four months' time to complete the departmental proceeding.

2. Mr. Das, learned senior advocate appearing on behalf of the Department submits that bonafide attempts were made by the authorities to complete the departmental proceeding as ordered, but due to some technical reason regarding appointment of Presenting Officer, Department could not complete the departmental proceeding, as ordered. Mr. Das, learned senior advocate refers to Section 148

of the C.P.C., which runs as follows:

"Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Code, the Court may, in its discretion, from time to time, enlarge such period, even though the period originally fixed or granted may have expired."

Referring to this provision, Mr. Das, learned senior advocate submits that in the interest of justice further extension of time can be enlarged by granting another four months' time to the Department for conclusion of the departmental proceeding.

3. Mr. Sinha, learned advocate appearing on behalf of the opposite party raises objection to the prayer made by the Department and he submits that there is laches on the part of the respondents on the face of the record in the matter of conclusion of the departmental proceeding, which would be evident from the order dated 10.6.97, Annexure/R1 to the application for which the Hon'ble Tribunal directed the respondents to finalise the departmental proceeding within six months from the date of communication of that order, in default of which the delinquent officer shall be exonerated from all the charges. So, the present application should be dismissed.

4. We have considered the submissions of the learned advocates of both the parties and we have also gone through the judgment dated 10.6.97 passed by this Tribunal and we find that in para 11 of the said judgment (Annexure/R1) it was specifically observed, that the departments are in laches in conclusion of the departmental proceeding and the delinquent officer was not in any way responsible for the delay. It was held that due to inordinate delay on the part of the Department, the departmental proceeding could not be finalised. Accordingly this Tribunal passed a conditional order with a direction that the departmental proceeding should be finalised within six months from the date of communication of that order and in default the original applicant shall be exonerated from all the charges. On a perusal of the records we find that the respondents are still guilty of laches. Accordingly, this application for extension of time does not constitute "sufficient cause" for exercising the

power of enlargement of period as already fixed under section 148 of the C.P.C. It is evident from the records that due to laches on the part of the Department, the departmental proceeding could not be completed within the period fixed and the delinquent officer is not any way responsible for such delay. Therefore, the prayer for extension of time is rejected. The delinquent officer shall be deemed to have been discharged from the departmental proceeding on the expiry of the period fixed by the order dated 10.6.97 and both the MAs are disposed of accordingly. It is noted that one contempt petition bearing No.170/97 is pending before this Tribunal. Mr.Sinha, learned advocate does not press this contempt petition. Therefore, CPC 170/97 is disposed of as being not pressed. Both MAs bearing Nos.354/98 and 468/97 are also disposed of awarding no costs.

B. P. Singh

(B. P. Singh)

MEMBER (A)

D. Purkayastha

(D. Purkayastha)

MEMBER (J)

3/12/98