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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR**

ORIGINAL APPLICATION NO. 231/2010

Date of order: 18.07.2011

CORAM:

HON'BLE DR. K.B.SURESH, JUDICIAL MEMBER

HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER

R.K. Khokhawat S/o Late Shri Hira Lal Khokhawat, aged about 57 years, R/o 186, Ashok Nagar, Road No. 10, Udaipur, at present employed on the post of SDE (NOW City-I) Udaipur, in the office of GMTD BSNL, Hiranmagri, Sector No. 4, Udaipur.

...Applicant.

For the applicant : Mr. J.K.Mishra, Advocate.

VERSUS

- 1- Bharat Sanchar Nigam Ltd., through its Chairman and Managing Director, Corporate Office, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi.
- 2- The Chief General Manager Telecommunication, BSNL, Rajasthan Circle, Sardar Patel Marg, Jaipur.
3. General Manager Telecom District, Hiranmagri, Sector No. 4, Udaipur.

....Respondents.

For the respondents : Mr. Lalit Vyas for Mr. Jagdish Vyas, Advocate.

ORDER (ORAL)

(Per Dr. K.B. Suresh, Judicial Member)

Heard both counsels.

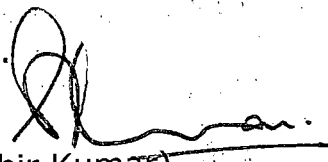
2. It would appear that the applicant had given an advise to a superior officer on a matter of process and procedure, whereby the superior officer is now facing disciplinary inquiry, and applicant is supposed to be one of the witnesses against him also. Therefore, since the matrix of the charge has already been examined by the department concerned, the delay in issuance of the chargesheet does not appear to be an abuse of process, as the matter is already under investigation. There is another

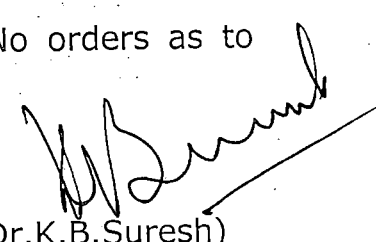
K.B. Suresh

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aspect of this matter. Had the giver of the advise, or the effect of the advise, ^{has} also a part of the burden of the advise given, is a question. Since the senior officers are already facing disciplinary proceedings on the advise given by the applicant himself, the correctness or not of the advise of the applicant himself has to be determined in the inquiry, and not before a Court acting on judicial review. Therefore, the following orders are passed :

3. The respondents are directed to complete the proceedings relating to the chargesheet against the applicant within six months next. We direct the applicant to cooperate with the inquiry to the fullest extent without fail.

4. If there is any illegality in the conduct of the proceedings, applicant is free to approach this Tribunal again. The O.A. is disposed of. The applicant is allowed to take whatever plea he would like to take in this respect but, we are not inclined to accept the plea of delay in raising chargesheet at this point of time because the matter had been pending consideration with various authorities all this time. We also do not think that the delay is very significant because the matter has been under consideration with several other authorities and in connected processes also, wherein, because of his advise, his seniors are now facing departmental enquiry. O.A. lacks merit and is disposed of with the above directions. No orders as to costs.


(Sudhir Kumar)
AM


(Dr. K. B. Suresh)
JM