

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A.1470 of 1997

Date of Order: 12-02-98.

Present: Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman.
Hon'ble Mr. S. Dasgupta, Administrative Member.

ARUN KR. SAHA

-VS-

UNION OF INDIA & ORS.

For the petitioner: Mr. M.A. Vidyadharan, counsel/
Ms. B. Mondal, counsel.
For the respondents: NONE.

Heard on: 12-02-98.

O R D E R

S. Dasgupta, A.M.

We have heard the 1d. counsel for the applicant at the admission stage.

The applicant is aggrieved by ~~an~~ Charge Memo dated 3.10.96 which has been served on him shortly prior to his retirement. The applicant has sought ~~for~~ quashing of the said charge sheet and also the purported proceedings ^{arising out of} ~~consequent~~ to the impugned memorandum of charges. He also seeks a direction upon the respondents to disburse the entire retirement claim including DCRG, pension, commuted value of pension, leave encashment etc.

The facts stated in the Original Application, disclosed that the applicant ~~had~~ been served with a charge memo dated 3.10.96 for certain alleged irregularities committed by him in as much as he had allegedly ~~fixed~~ allowed the Dankuni Stere Dealers Association to lift their goods without imposing

any wharfage/demurrage charges without any authority and in utter disregard to the Indian Railways Tariff Rules. It is also alleged that he had failed to act on the instructions of superior officers.

The position of law with regard to interference of the Court and Tribunals at the interlocutory stage of charge-sheet has been repeatedly clarified by the Apex Court in a catena of judgements. In the case of (i) Union of India-VS-K.K. Dhawan, 1993SCC L&S, 324 , (ii) Union of India-VS-A.N. Saxena, 1992, SCC, L&S, 861 and (iii) Union of India-VS- Upendra Singh- JT 1994(i)SC658 followed by several other decisions, it was categorically laid down that Courts and Tribunals shall have no jurisdiction to interfere with the proceedings at the Charge-sheet stage unless the statement of imputation does not make out any misconduct under the rules.

We have carefully perused the statement of misconduct in the charge memo. The said imputation does make out misconduct and therefore, this Tribunal would have no jurisdiction to enter into the validity of charges or otherwise, at this stage. Ld. counsel for the applicant pointed out certain circumstances under which he should not have been charge-sheeted at all. These circumstances can be raised by him by way of defence in the departmental proceedings.

Since the applicant is facing departmental proceedings under the rules, he is only entitled to provisional pension. Ld.counsel for the applicant stated that such pension has not been granted to him. He did not also receive leave encashment. If that be so, we would expect that the respondents would clear these dues within a period of one month from the date of communication of this order. The applicant also pointed out that even after considerable time has elapsed, no proceedings have yet been started. If that be so, we would expect that the

respondents
should start proceedings ~~immediately~~ ^{forthwith} and, in accordance with
the law ~~and~~ to conclude the proceedings within a reasonable
time.

The application stands disposed of accordingly. No
costs. Affidavit-of-service, filed this day be kept with the
records.



(S. Dasgupta)
Member(A)



(S. N. Mallik)
Vice-Chairman.