

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 458 of 2012

Monday, this the 18th day of February, 2013

CORAM:

Hon'ble Mr. Justice P.R Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

T. Cheriya Koya, S/o. Abdula Koya,
 aged 61 years, Retd. Deputy Collector (HQ),
 Kavarathy, Residing at Thekilapura house,
 Chetlat Island, Lakshwadeep, Pin-682 554.

..... **Applicant**

(By Advocate – Mr. M.R. Hariraj)

V e r s u s

1. The Union of India, represented by the Secretary to Govt. of India, Ministry of Home Affairs, New Delhi, Pin – 110 001.
2. The Administrator, Union Territory of Lakshadweep, Kavathy, Pin – 682 555.
3. Collector cum Development Commissioner, Kavarathi, Pin – 682 555.

..... **Respondents**

[By Advocates – Mr. T.M. Nellimoottil, Sr. Panel Counsel (R1) & Mr. S. Radhakrishnan (R2-3)]

This application having been heard on 18.02.2013, the Tribunal on the same day delivered the following:

ORDER

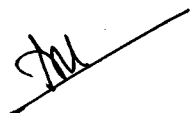
By Hon'ble Mr. Justice P.R Raman, Judicial Member -

The applicant seeks to quash the memorandum of charges Annexure A1 dated 3.1.2009 on various grounds. He was an employee of the Lakshadweep Administration. He was issued a charge sheet on 3.1.2009 but he denies the charges. Subsequently inquiry was proposed to be held against

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him. The disciplinary action was not completed and he retired from service with effect from 31.3.2010. He approached this Tribunal by filing OA No. 635 of 2011 seeking to quash the proceedings on the short ground of undue delay in completing the proceedings even after his retirement. This Tribunal by order dated 20th July, 2011 a copy of which is produced as Annexure A8, declined to grant the larger relief as prayed for but directed the respondents to complete the inquiry and to take a final decision on the disciplinary proceedings within a period of four months. Since the respondents did not complete the inquiry within the period of four months, they sought extension of time by filing MA No. 1063 of 2011. This Tribunal after hearing both sides enlarged the time by two months by order dated 29th November, 2011. Even within this extended time disciplinary proceedings was not completed. The respondents again approached this Tribunal by filing MA No. 151 of 2012 for further extension of time. This Tribunal by Annexure A11 order dated 7th February, 2012 refused to grant further time and the MA was dismissed. Even as on today final action is not taken against the applicant either by punishing him or by dropping the proceedings as the case may be even though inquiry has been completed.

2. It is the case of the applicant that non-completion of the disciplinary proceedings by not passing final orders within the extended time granted by this Tribunal takes away the jurisdiction of the respondents to complete the proceedings thereafter. In other words the right to continue the proceedings is lost by efflux of time and any proceedings continued beyond the time fixed by this Tribunal is ex facie wrong and without jurisdiction. Reliance is



placed on the decision of the Co-ordinate bench of this Tribunal reported in 2001 (1) ATJ 404 – Pranab Kumar Dutta Vs. Union of India & Ors. as also in 2002 (2) ATJ 481 – Union of India Vs. Sambhu Saran Singh & Anr. and 2004 (1) ATJ 458 – H.S. Shekhawat Vs. The Union of India & Ors. In the last of the decision rendered both the earlier decisions i.e. 2001 (1) ATJ 404 & 2002 (2) ATJ 481 have been referred. The Tribunal in identical situation quashed the entire proceedings.

3. The learned counsel appearing for the respondents submitted that inquiry has been completed and the matter has been taken up with the President of India for final action. It is also contended that the non-completion of the inquiry cannot be attributable on the part of the respondents and it has happened because of the fact that the applicant himself sought for adjournment of the inquiry on one ground or another.

4. In this context it is pointed out by the counsel for the applicant that it is only during the one month's period while he was away for Haj pilgrimage an adjournment was sought on his behalf.

5. It is not necessary to consider by us the rival contentions on this ground since we are not considering the fact of non-completion of the inquiry is attributable on the part of the respondents or the applicant. If as a matter of fact the respondents has the case that it is because of the applicant that the inquiry is not completed, they could only seek extension of time for completion of the disciplinary proceedings. This Tribunal has already considered the enlargement of time and rejected the same on the ground that

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since the employee has retired as early as in March, 2010 and if the respondents could not complete the inquiry within the reasonable time that too when the time is extended as per law, we do not find it a fit case to enlarge the time any more. The order passed by this Tribunal became final as there was no challenge thereto.

6. Once the time is fixed by this Tribunal it is the bounden duty of the respondents to complete the proceedings and take final action within the aforesaid period. Not only that such proceedings were not completed within the initial period fixed by this Tribunal but not completed even within the extended period. Once the time has already comes to a stop thereafter the respondents cannot complete the inquiry beyond the time fixed by this Tribunal and it cannot be countenanced as a legally valid proceeding. The respondents loses its jurisdiction to complete the proceedings beyond the time fixed by this Tribunal and which has become final.

7. In the result the proceedings initiated against the applicant pursuant to Annexure A1 charge sheet is set aside. OA is allowed as above. No costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

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