

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 578/2000

Wednesday this the 7th day of June, 2000

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. G. RAMAKRISHNA, ADMINISTRATIVE MEMBER

Cherian Kurian,
Assistant Director,
ESI Corporation, Regional Office,
Trichur residing at Attumalikkal,
August Nursehome Road,
Changampuzha Nagar,
Kalamasseri. Applicant

(By Advocate Mr. M.R. Hariraj)

Vs.

1. Union of India represented by the Secretary
to the Government of India,
Ministry of Labour,
New Delhi.
2. The Deputy Director (Vigilance)
ESI Corporation,
Panchadweep Bhawan,
Kotla Road, New Delhi.
3. The Chairman,
Standing Committee ESI Corporation and
Central Labour Secretary,
Ministry of Labour,
Government of India,
New Delhi. Respondents

(By Advocate Mr. T.V. Ajayakumar (for R.2&3)
Mr. George Joseph (rep.) for R.1.

The application having been heard on 7.6.2000, the Tribunal
on the same day delivered the following:

ORDER

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant, Assistant Director, E.S.I. Corporation, Regional Office, Trichur has filed this application impugning the order dated 18.10.99 (A.1) of the second respondent rejecting his representation dated 1.10.99 objecting to the appointment of the Enquiry Officer before

considering the written statement of defence submitted by him and the order dated 7.12.99 (A2) rejecting his representation against A.1. order on the ground that there is no provision of appeal against such an order.

2. The applicant was served with a Memorandum of Charge (Annexure.A4) dated 15.4.97 informing him that the competent authority had decided to hold an enquiry under Regulation 14 and Para 3 of third Schedule of the Employees State Insurance Corporation (Staff & Conditions of Service) Regulation, 1959 (as amended) against the applicant in respect of articles of charges accompanying the Memorandum giving him ten days' time to submit his written statement of defence. The applicant however, made a representation on 9.5.97 requesting for thirty days' time to submit his written statement. Thereafter the Presenting Officer was appointed on 5.8.97. The applicant had not submitted his written statement within that time. According to the applicant he could peruse the relevant documents only later and hence the delay. Finding that an Enquiry Officer has been appointed, the applicant made a representation on 1.10.99 (A.12) objecting to the appointment of the Enquiry Officer and proceeding with the enquiry in respect of A4 Memorandum of Charges stating that only after considering the contentions put forth by him in the written statement, the competent authority could decide to hold an enquiry. This representation was rejected by A.1 and the appeal against that was rejected by A2 on the ground that there is

✓

no provision of appeal against proceedings of this nature.

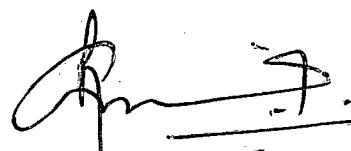
3. The applicant aggrieved has filed this application for quashing Annexures A1 and A2, for a declaration that the continuance of the disciplinary proceedings against the applicant on the basis of A4 Charge Memo and the impugned orders are illegal and for restraining the respondents from proceeding with the enquiry.

4. On a careful scrutiny of the application, annexures appended thereto especially the impugned orders and on hearing the learned counsel for the applicant and Shri Ajaykumar, learned counsel appearing for the ESI Corporation, we are of the considered view, that the applicant does not have any cause action at all. The applicant was given sufficient time to give a written statement of defence to the Memorandum of Charges (A4). Even though he made a request for extension of thirty days more time, on 9.5.97 that too was granted and it was only after that the competent authority had appointed an enquiry officer. By order dated 14.10.98 (A.10) the applicant had been informed that the enquiry would be proceeded with. The applicant did not challenge that order. Now the right of the applicant to challenge that order has been barred by limitation. Further, we do not find any infirmity in A.1 order informing the applicant that the enquiry would be held, that his defence whatever was stated in the written statement would be considered and that he would be free to

M

put forth his further defences before the Enquiry Officer. Annexure.A.2 order is also perfectly in order as there is no provision for filing an appeal against an interlocutory order like Annexure.A1. The application is wholly misconceived and the same is rejected under Section 19(3) of the Administrative Tribunals Act. There is no order as to costs.

Dated the 7th day of June, 2000



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

S.

List of annexures referred to:

Annexure.A1: True copy of letter No.C.14/B-5/97-Vig. dated 18.10.1999 issued by the Section Officer (Vig.)

Annexure.A2: True copy of the Order No.C.14/13/5/97-Vig. dated 7.12.1999 issued by the 2nd respondent.

Annexure.A4: True copy of the Charge Memo No.C.14/135/97-Vig. dated 15.4.1997 issued by the Director General, Employees State Insurance Corporation, Panchdeep Bhawan, Kotla Road, New Delhi.

Annexure.A10: True copy of the Order No.53-C-14-13-5-87-Vig. dated 14.10.98 issued by the Assistant Director (Admn), Bangalore.

Annexure.A12: True copy of the representation dated 1.10.1999 submitted by the applicant to the Director General, Office of the 2nd respondent.

....