

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH  
ERNAKULAM

DATE OF DECISION

21.2.1990

PRESENT

HON'BLE SHRI N.V. KRISHNAN, ADMINISTRATIVE MEMBER  
AND

HON'BLE SHRI N.DHARMADAN, JUDICIAL MEMBER

ORIGINAL APPLICATION NO. 110/1990

P.T. Joseph

...

Applicant

vs.

1. The Controller General of Accounts, Department of Expenditure, Ministry of Finance, New Delhi.
2. The Chief Controller of Accounts, Central Board of Excise & Customs, AGCR Building, New Delhi.
3. Shri K.Sundararajan, Dy. Controller of Accounts (IA) C/o Pay & Accounts Officer, Central Excise, Bombay-I, Bombay-20.
4. The Pay & Accounts officer, Central Administrative Tribunal, Nirvachan Sadan, New Delhi. .... Respondents

Applicant in person.

Mr. P.V.Madhavan Nammiar, SCGSC .. Counsel for the Respondents.

O R D E R

(Shri N.V.Krishnan, Administrative Member)

The applicant was working as the Pay & Accounts Officer in the Central Excise Collectorate, Cochin during the period from April, 1984 to November, 1985. A memorandum of charges dated 18th July, 1988 (Annexure-1)

was issued to him in respect of certain acts of omission, allegedly leading to defrauding of Government to the extent of Rs 2,18,400. The applicant's grievance is that though he is due to retire from service on super-annuation on 31.3.1990, the regular enquiry in the aforesaid departmental proceeding has not yet started, though the memorandum of charges was served in July, 1988. He, therefore, seeks to quash the memorandum of charges (Annexure-1) and have the following directions issued to the concerned authorities:

- i) to direct the Inquiry Authority and the Disciplinary Authority to dispense with the common proceedings and to hold the inquiry against the applicant separately from others and to finalise the disciplinary action including issue of final orders on or before the date of retirement of the applicant, viz., 31.3.1990 failing which the respondents may be directed to release all the pensionary benefits including DCRG and commutation value on 1.4.1990.
- ii) If, however, there occurs any delay in releasing the pensionary benefits, the respondents may be directed to grant the applicant interest at 18% on DCRG and commutation value from 1.4.1990.

2. When the matter came up for hearing for admission, the Senior Central Government Standing Counsel appearing for the respondents filed a Statement. As it appears to us after perusal of the Statement and hearing the parties that the application could be disposed of with suitable

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directions to the respondents, we admit, the application for this very purpose.

3. The respondents state that in addition to the applicant two other members of the staff, Shri P.V.Francis, Junior Accounts Officer and Shri V.P. Radhakrishnan, Accountant, were also proceeded against in respect of the same transaction. The first respondent, i.e. the Controller General of Accounts, who is the Head of the Department, has ordered under Rule 18 of the Central Civil Services (Classification, Control & Appeals) Rules that in respect of all the 3 delinquents, including the applicant common proceedings be conducted. He also appointed Shri K.Sundararajan, Dy. Controller of Accounts (IA), Bombay as the Enquiry Officer. *He stated* that on 20th July, 1989, the Enquiry Officer ordered the proceedings to be stayed under Rule 14(14) of the aforesaid Rules, as Shri V.P.Radhakrishnan had submitted an application against him on the ground of bias.

4. *As* this application is to be disposed of by the Reviewing Authority, i.e. the Ministry, to whom the

matter has been referred by the Controller General of Accounts who is the Disciplinary Authority. ~~He~~ <sup>It is</sup> stated that the orders of the Ministry are still awaited.

The respondents contend that splitting up of the proceedings and continuing the proceedings separately against each delinquent may not be possible.

5. The Counsel for the respondents orally submitted that it would be possible to complete the disciplinary <sup>U.S. 5/10</sup> proceedings within a period of ~~three~~ months and prayed for the grant of time for this purpose.

6. We heard the parties. The applicant is concerned that if the disciplinary proceedings are not completed on time, it would not be possible for the pension claims to be finalised. He apprehends that joint proceedings will prolong the enquiry; hence he had prayed for holding enquiries separately which was once rejected by the first respondent by the order at Annexure-7. The applicant had submitted another representation against Annexure-7 <sup>U.S. (An. 8)</sup> order by his letter dated 25th July, 1989. It is stated that this representation is still to be disposed of.

7. Therefore, insofar as the relief for the direction to dispense with the common proceedings and holding an enquiry against the applicants separately, is concerned, we are of the view that it would be sufficient if the first respondent is directed to consider the representation of the applicant at Annexure-8 and pass suitable orders within a period of 3 weeks taking into account all the grounds mentioned by him. We do so.

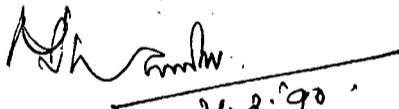
8. In the circumstances of the case, the first prayer to quash Annexure-1 memorandum of charges has to be summarily rejected and it is accordingly ordered.

9. We are also of the view that for, whatever be the reasons, the respondents have taken an unreasonably long time in finalising these disciplinary proceedings. It is surprising that, a decision on the objection of Shri V.P.Radhakrishnan to the enquiry being held by Shri K.Sundararajan has still not been taken. However, this by itself, cannot be an extenuating circumstance for the unreasonably long time in resuming the disciplinary proceedings.

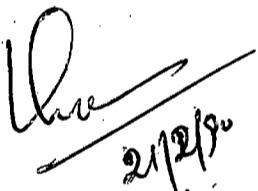
10. We are of the view that it should be possible to take decisions soon whether the enquiry should be

held separately or jointly and the person who is to be appointed as Enquiry Officer within a fortnight's time. Thereafter, the disciplinary proceedings should be expedited without any further loss of time. Considering the nature of the charges we are of the view that the request made by the counsel for the respondents is not unreasonable. Therefore, we further direct the first respondent to ensure that the disciplinary proceedings against the applicant are disposed of as expeditiously as possible and at any rate, within a period of 6 months from the date of receipt of a copy of this order.

11. The application is disposed of with the aforesaid directions.

  
(N. Dharmadan)  
Judicial Member

21.2.90

  
(N. V. Krishnan)  
Administrative Member  
21/2/90

CENTRAL ADMINISTRATIVE TRIBUNAL: ERNAKULAM BENCH

Date: 7-3-1990

Present

Hon'ble Shri NV Krishnan, Administrative Member  
and

Hon'ble Shri N Dharmadan, Judicial Member

RA No.31/90 in OA No.110/90

PT Joseph

: Review Applicant /  
Applicant.

Vs.

- 1 Controller General of Accounts  
Department of Expenditure  
Ministry of Finance, Lok Nayak  
Bhavan, New Delhi.
- 2 The Chief Controller of Accounts  
Central Board of Excise & Customs  
AGCR Buildings, New Delhi.
- 3 Shri K Sundarajan  
Dy. Controller of Accounts (IA)  
C/o the Pay & Accounts Officer  
Central Excise, Bombay-1  
115, MK Road, Bombay-20.
- 4 The Pay and Accounts Officer  
Central Administrative Tribunal  
Nirvachan Sadan, 7th Floor,  
New Delhi.

: Respondents in RA/  
Respondents.

Applicant in person.

Mr PVM Nambiar, Sr CGSC

: Counsel of Respondents

O R D E R

Shri NV Krishnan, Administrative Member.

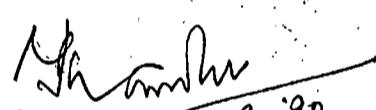
We have heard the Review Applicant.

The only new point made by the Review Applicant  
is that on the date the original order was passed, the  
respondents had already taken a decision on the question  
whether a joint inquiry is to be held and whether there  
should be a change of the Inquiry Officer. He, therefore,  
submits that as these two matters were already out of  
the way even on the date the original order was passed,

there is no need to give the respondents a long time to dispose of the case. Hence the order is sought to be reviewed.

2 We notice from para 10 of our order dated 21.2.90 that for the two months referred to above, we had given only a fortnight's time to take decisions which now became unnecessary. This is not such a significant saving as to necessitate a review of the original order. However, the respondents may note that for the reason mentioned above, they have already been given sufficient time for final disposal of the Departmental inquiry.

3 In the circumstances, the Review Application is dismissed.

  
7.3.90

(N Dharmadan)  
Judicial Member

  
7.3.90

(NV Krishnan)  
Administrative Member

7-3-1990