

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 Nambiar, 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 superannuation 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^{ed} 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, ^{It is} 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. ^{It is stated} 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. ^{It} ~~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. ^{It is} ~~He~~ stated
that the orders of the Ministry are still awaited.

The respondents contend^d 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
proceedings within a period of ⁶ ~~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
order by his letter dated 25th July, 1989, ^(An. 8) 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 ^{being} hold^{ing} an enquiry against the applicants separately, ^{is} ~~in~~ ⁱⁿ ~~concern~~ ^{concern}, 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 ^{even} 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


(N. V. Krishnan)
Administrative Member

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 ^{the matters} ~~two months~~ referred to above, we had given only a fortnight's time to take decisions which, ^{has} now become 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.


(N Dharmadan)
Judicial Member

7.3.90


(NV Krishnan)
Administrative Member

7-3-1990