

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.259/2006

Dated Friday, 28th day of September, 2007.

CORAM :

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER

P.P.Balasubramanian.

Director, Directorate of Cashewnut

& Cocoa Development., Kochi. Residing at A1,

Sivasakthi Apartments, Sanskrit College Road,

Tripunithura-682 301

... Applicant

By Advocate Mr.T.Ravikumar(absent)

V/s.

- 1 Union of India represented by
Secretary, Ministry of Agriculture,
Department of Agriculture & Cooperation,
Krishi Bhavan, New Delhi-110 001.**
- 2 The Secretary
Department of Agriculture & Cooperation,
Krishi Bhavan, New Delhi-110 001.**
- 3 The Director
Ministry of Agriculture,
Department of Agriculture & Cooperation,
Krishi Bhawan, New Delhi**
- 4 The Horticulture Commissioner
Department of Agriculture & Cooperation,
Ministry of Agriculture & Cooperation,
Krishi Bhawan, New Delhi**
- 5 The Chief Vigilance Officer & Joint Secretary
Government of India,
Ministry of Agriculture,
Department of Agriculture & Cooperationn,
Krishi Bhawan, New Delh – 110 001. ... Respondents**

By Advocate Mr.TPM I Khan SCGSC

This application having been heard on 28.9.2007 the Tribunal, on the same day delivered the following:

(ORDER)**Hon'ble Mrs. Sathi Nair, Vice Chairman**

1 None present for the applicant even on second call. It is noted that on 6/6/2007, 2/7/2007, 23/7/2007, 13/8/2007, 19/9/2007 and today also none is present for the applicant. It seems that the applicant is not interested in pursuing with the case.

2 OA is dismissed for want of prosecution.



GEORGE PARACKEN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

abp

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 259 / 2006

Thursday, this the 13th day of March, 2008.

CORAM

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

HON'BLE DR K.S.SUGATHAN, ADMINISTRATIVE MEMBER

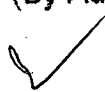
P.P.Balasubramanian,
Director,
Directorate of Cashewnut & Cocoa Development,
Kochi.Applicant

(By Advocate Mr T Ravikumar.)

v.

1. Union of India rep. by the
Secretary to Government of India,
Ministry of Agriculture,
Department of Agriculture &
Co-operation,
Krishi Bhavan,
New Delhi-110 001.
2. The Secretary to Government of India,
Ministry of Agriculture,
Department of Agriculture & Co-operation,
Krishi Bhavan,
New Delhi-110 001.
3. The Director,
Horticulture,
Ministry of Agriculture,
Department of Agriculture & Co-operation,
Krishi Bhavan,
New Delhi-110 001.
4. The Horticulture Commissioner,
Department of Agriculture & Co-operation,
Krishi Bhavan,
New Delhi-110 001.
5. The Chief Vigilance Officer & Joint Secretary,
Government of India, M/o Agriculture,
Department of Agriculture & Co-operation,
Krishi Bhavan,
New Delhi-110 001.Respondents

(By Advocate Mr. TPM Ibrahim Khan, SCGSC)



This application having been finally heard on 18.2.2008, the Tribunal on 13.3.2008 delivered the following:


ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

The applicant has filed the present O.A challenging the Annexure A-XIV Memorandum dated 13.3.2006 proposing to hold an enquiry against him. There are altogether 8 charges. The main thrust of these charges is financial irregularities alleged to have been committed by the applicant in sanctioning Rs.3 lakhs to one person and Rs.3.5 lakhs each to 7 other persons as subsidy under the Scheme for establishing Cashew Nursery/Cocoa Nursery under specified schemes. The contentions of the respondents were that the entrepreneurs to whom the amount was disbursed were not eligible for the subsidy and the applicant has not done the identification of locations of nurseries as per the guideline.

2. The main ground adduced by the applicant to challenge the aforesaid Memo of charges were that the show cause notice was issued to him with malafide intention as the alleged irregularities pertained to the year 2001 and 2003, the memo was issued without proper application of mind and he was due for retirement on 1.5.2006 as he had already submitted application for voluntary retirement from service on 16.11.2005.

3. The respondents submitted that none of the grounds mentioned in the O.A are tenable for setting aside the Annexure A-XIV Memo of charges as prayed for by the applicant. They denied that the show cause notice was issued with malafide intentions. They have also submitted that certain minor typographical errors for using the word 'Cocoa' for 'Cashew' in para (e) of the



article of charge will not constitute the case as one of non application of mind. They have also submitted that the applicant has approached this Tribunal without exhausting the statutory/departmental remedies available to him and therefore the O.A is premature.

4. During the pendency of this O.A, the applicant vide Annexure A-XXXIX dated 6.10.2006 submitted a detailed defence statement for the consideration of the Disciplinary Authority. Having not satisfied with the defence statement submitted by him, the Disciplinary Authority (President) decided to hold the enquiry under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, and appointed Shri Mukesh Khullar, Joint Secretary, Department of Agriculture & cooperation as the Inquiring Authority to inquire into the charges. The Inquiry Authority, in turn vide Annexure XLI dated 30.11.2006 directed the applicant to attend the preliminary hearing scheduled to be held on 20th December, 2006 at 11.00 AM in Room No.297-D1, Second Floor, Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi-110 001. The applicant has therefore, filed M.A.16/2007 stating that the appointment of the Inquiry Authority was hasty and uncalled for when the matter was pending before this Tribunal and submitted that if at all the enquiry is to be held, it shall be held in Kochi as the applicant is not in a position to travel all the way to Delhi.

5. We have heard Shri T Ravikumar counsel for applicant and Shri TPM Ibrahim Khan, SCGSC for respondents. Since this Tribunal did not grant any interim relief prayed for by the applicant to stay the operation of impugned memorandum dated 30.1.2006 during the pendency of this O.A, the respondents have proceeded with the preliminary enquiry. The applicant is almost reconciled to the fact that the enquiry in the matter is inevitable and he is not likely to succeed in getting the aforementioned memorandum set aside at this

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interlocutory stage. We also do not find any merit in the O.A and accordingly the same is **dismissed**.

6. Now the only question that remains is whether the prayer in the M.A.16/2007 can be allowed or not. The applicant has since been retired from service and he is residing at Tripunithura near Cochin. The enquiry is now being held in New Delhi in the office of the Inquiry Authority. No doubt, the applicant has to undertake long journeys to New Delhi to participate in the inquiry proceedings which is quite inconvenient to him. Since there are no specific rules regarding the venue of the enquiry as regards the retired Government employees are concerned, it is a matter to be decided on the basis of the convenience of the retired Government servant and his defence assistant on the one side and Inquiry Authority and the Presenting Authority on the other side. In this view of the matter, we dispose this M.A. with the directions to the applicant to make a representation to the Disciplinary Authority in this regard within one week from the date of receipt of this order and to the Disciplinary Authority to consider the same expeditiously and pass a speaking order within one month from the date of receipt of such representation. Till such time, the respondents shall not compel the applicant to attend the Inquiry Proceedings at New Delhi.

8. There shall be no order as to costs.


DR K.S.SUGATHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER