

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 177/2006

this the 10th day of August, 2006

HON'BLE SHRI JUSTICE KHEM KARAN, VICE CHAIRMAN

HON'BLE SHRI P.K. CHATTERJI, MEMBER (A)

Vijay Kumar Varshney aged about 58 years son of late Shri P.P. Varshney, resident of 20/257, Indira Nagar, Lucknow, presently attached with the office of Chairman, Board of Revenue, Uttar Pradesh, Lucknow.

...Applicant

By Advocate:- Sri S. Lavania

Versus

1. Union of India through the Secretary (Personnel), Ministry of Personnel , Public Grievances and Pensions, New Delhi.
2. State of U.P., through the Chief Secretary, Govt. of U.P., Civil Secretariat, Lucknow.
3. The Secretary, Appointment Department, Govt. of U.P. , Civil Secretariat, Lucknow.

...Respondents

By Advocate: Shri S.P.Singh for Shri S.P.Tripathi for Respondent No. 1
Shri A.K.Chaturvedi for State of U.P.

ORDER (ORAL)

By Hon'ble Shri Justice Khem Karan, Vice Chairman

Shri S. Lavania appearing for the applicant has stated that this O.A. may be finally disposed of, fixing a reasonable time schedule within which the respondents should pass final orders , in disciplinary proceedings pending against the applicant since June 2004. The learned counsel has stated that the applicant who is a member of Indian Administrative Service, was placed under suspension vide order dated 11.6.2004 under sub Rule (1) of Rule 3 of Indian Administrative Service



(Disciplinary and Appeal Rules, 1969 and is continuing under suspension on the basis of repeated extensions under sub Rule (8) of Rule 3 of the said Rules of 1969, though enquiry report was submitted long back in April, 2006 and the applicant submitted his written reply to show cause notice in the first week of June 2006. Shri Lavania has submitted that the applicant is due to retire on 31.7.2007 and in all fairness, he is entitled to know the fate of proceedings before he superannuates. He says even the subsistence allowance is not being paid the matter is being kept pending.

2. But Shri Ashit Kumar Chaturvedi appearing for the respondents contends that request of Shri Lavania cannot be accepted and no directions can be issued to the respondents to conclude the disciplinary proceedings in question within a certain period or by a certain date. According to him, firstly no such time frame was fixed even by the Hon'ble High Court in its order dated 24.5.2006 passed in Writ Petition No. 671 (S/B) of 2006, filed by the applicant seeking various reliefs, as reproduced in para 6 of the reply to the Rejoinder and therefore it should be inferred that Hon'ble Courts did not find it fit to fix any period for conclusion of the proceedings. His second submission is in such matters, consultation with Union Public Service Commission is also required under the relevant rules, especially in the context of awarding punishment if any and the experience is that the Commission usually takes 4-6 months, in giving its opinion. According to Shri Chaturvedi in absence Commission being a party to this litigation, fixing of any time schedule may not be proper or feasible. He says it is for all these reasons, the courts normally do not fix a time schedule for finalization of such proceedings.

3. We have considered the respective submissions in the light of the admitted facts and circumstances and we are of the view the request of



Shri Lavania is genuine and innocuous one and should be accepted. The proceedings are pending for over a period of two years and the applicant is under suspension since June 2004. The Enquiry Officer submitted his report long back in April 2004 and the applicant has also submitted his written reply in first week of June 2006. It is not known as to why the State Government has not been able to form its view one way or the other. In the matter of such a senior officer especially when he is due to retire very shortly on 31.7.2007, things should move fastly. Keeping such matters for unduly long period, tends to demoralize the servant and to prolong his agony. He is entitled to know the fate of these proceedings as early as possible.

4. A perusal of order dated 24.5.2006 of Hon'ble High Court referred to above does not reveal that their Lordships considered the question whether time schedule could or could not be fixed, so that order to our mind does not prevent us from considering the request of Shri Lavania. Absence of Commission, is also not the circumstance that prevents us from considering that request. At most, the time to be taken by the Commission, can be kept in view while fixing the period. The main players are the State Government and the Central Government which are already arrayed as respondents.

5. So for the reasons stated above, we dispose of this O.A. finally with direction to the State Government to take its own decision as required under the Rules within a period of one month from the date a certified copy of this order is produced before it, and if need be, refer the matter to Central Government or the Commission as may be required under the Rules within a period of 15 days thereafter and the Central Government shall pass final orders as per rules, as expeditiously as possible and in any case before 31.12.2006. In case the final orders are not passed before 31.12.2006, the applicant shall have liability to

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approach this Tribunal for necessary orders. Subsistence allowance, if it has not been paid so far, shall be paid by the respondent No.2 as per rules within a period of one month, from the date a certified copy of this order is received by it. No order as to costs.

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Member (A)

10.8.56

Vice chairman

HLS/-