

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 922 of 2001.

Dated this Monday, the 21st day of January, 2002.

B. V. Katti, _____ Applicant.

Shri Babu Rajan, _____ Advocate for the
Applicant.


VERSUS

Union of India & 5 Others, _____ Respondents.

Shri V. S. Masurkar, _____ Advocate for the
Respondents.

CORAM : Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman.
Hon'ble Shri B. N. Bahadur, Member (A).

- (i) To be referred to the Reporter or not ? *Yes*
(ii) Whether it needs to be circulated to other Benches of the Tribunal ? *No*
(iii) Library. *No*


(B. N. BAHADUR)
MEMBER (A)

OS*

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Hon'ble Shri B. N. Bahadur, Member (A).

B. V. Katti,
Working as Divisional Engineer,
Staff No. 5788,
Working under General Manager,
M.T.N.L., Bombay.
Residing at -
5/5, P & T Colony,
Mulund (West),
Mumbai - 400 080.

... Applicant.

(By Advocate Shri Babu Rajan)

VERSUS

1. Union of India through
The Secretary,
Ministry of Communications,
Deptt. of Telecommunications,
New Delhi.

2. Asst. Director General (Vig.),
West Block - I, Wing 2,
Ground Floor, R. K. Puram,
Sector - 1,
New Delhi - 110 066.

3. Chief General Manager,
M. T. N. L.,
Telephone House,
Prabhadevi,
Mumbai - 400 028.

4. Dy. General Manager (Vig.),
M.T.N.L.,
Telephone House, 14th floor,
Prabhadevi,
Mumbai - 400 028.

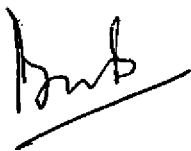
5. Dy. General Manager (VPL),
Vile Parle Telephone Exchange
Building, Vile Parle (E),
Mumbai - 400 057.

6. General Manager,
M.T.N.L.,
Vashi Telephone Exch. Bldg.,
Vashi, Navi Mumbai.

... Respondents.

(By Advocate Shri V. S. Masurkar)

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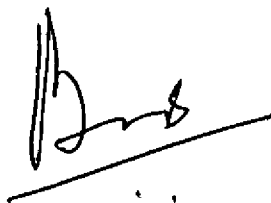
O R D E R (ORAL)

PER : Shri B. N. Bahadur, Member (A).

The Applicant has come up to the Tribunal seeking a direction to the Respondents that the impugned disciplinary proceedings ordered by the Respondents be proceeded with and disposed of within a time bound period. The Respondents have filed a reply in the matter. Since the issue involved and the directions sought are in a short compass, we are disposing of this O.A. at the stage of admission after hearing Learned Counsel on both sides.

2. The facts as relevant are that the Applicant, serving as Divisional Engineer, Mumbai, with Respondents, was issued a charge-memo on 08.08.2000 for a departmental enquiry. A reply was submitted to this charge memo on 18.10.2000. It was only on 16.01.2001 that an Inquiring Authority was appointed. Learned Counsel, Shri Babu Rajan, who was heard in the matter made the point that the enquiry has proceeded at a very slow pace, despite co-operation from the Applicant. Only on one day when there was the sad demise of younger brother due to heart attack was an adjournment sought. Learned Counsel, Shri Babu Rajan also made the point that some one and a half year has lapsed and that Government's own instructions expect the enquiry to be completed in one and a half years. In this case the important point sought to be highlighted was that the Applicant was due to retire on superannuation in June of 2002 and hence all the more reason why the pace of the enquiry proceedings should be speeded up. It was pointed out by the Learned Counsel for Applicant that applicant's

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request for proceeding abroad has not been agreed to and a 'No Objection Certificate' required to proceed to U.S.A. for religious function in son's house has been refused. In fact, as one relief sought for is for a direction to Respondents to the effect that Applicant be allowed to go to U.S.A. for the aforesaid purpose.

3. The Respondents have filed a Written Statement of reply where the facts are set out. It is stated that the Respondents would be able to finalise the enquiry as per the time schedule set out in para 6 of the reply i.e. the report of Enquiry Officer can be finalised by June, 2002. It is further stated that since consultation with C.V.C. and U.P.S.C. are required, Applicant being a Group 'A' Officer, the Respondents will require time for consulting with C.V.C. including some three to four months further to enable U.P.S.C. to tender its advise.

4. Learned Counsel for Respondents, Shri V. S. Masurkar, sought to depend on his Written Statement and argued that the Applicant was neither under suspension nor he had been subjected to any punishment and that the authorities mentioned, namely - C.V.C. and U.P.S.C. were not under the control of Central Government. He also made the point that Applicant's prayer for proceeding to U.S.A. was without any basis, in that, he could not invoke the jurisdiction of Court of Law for this purpose. An enquiry was pending against him and hence his application for the purpose had already been considered and rejected.

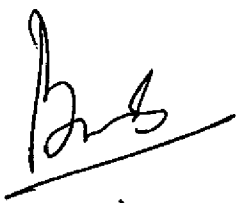
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5. We have considered all papers in the case and the arguments made by the Learned Counsel on respective sides. On the one hand, it is clear that some one and a half years have lapsed since the Charge Memorandum was issued. Government instructions, indeed, envisage completion of disciplinary enquiry expeditiously and this Department envisages completion in some one and a half years as per copy of instructions shown across the bar. It is also seen unfortunately that in the first place some five months were required even to appoint an Enquiry Officer. Thereafter, hardly any progress has been made. While the fact that Applicant is retiring does not give an automatic and legal right for expediting the enquiry, it is certainly a just cause and makes it desirable that the enquiry should not be kept lingering after the employees have retired without a just cause. In this case, we find that the progress of enquiry has been extremely slow. Be that as it may, there is a ground for providing the Applicant with simple relief i.e. provision of time limit for completion of enquiry. Considering all aspects and Government Instructions, we feel that six months time would be adequate for the completion of the enquiry i.e. upto issue of final orders by the Disciplinary Authority after consulting those organisations/bodies required to be consulted as mentioned in Written Statement of respondents.

5. In regard to the relief sought for a direction to allow Applicant to proceed abroad, no direction in this regard can be made to the Respondents by this Tribunal. It is not as though

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the rejection is arbitrary or without any reason. An enquiry is pending against the officer and, therefore, it is for the Respondents to apply their mind on a case to case basis and take a decision as per rules and on merits. Learned Counsel, Shri Babu Rajan, made the point that atleast after the completion of the proceedings before the Enquiry Officer the Applicant may be allowed to proceed abroad. In this regard also, we will not give any directions. It is, ofcourse, up to the Applicant to approach the Respondents in this regard and for the Respondents to take a decision on merits in accordance with Government Instructions/Rules.

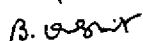
6. In view of the above discussions, this O.A. is disposed of with the following directions :

(i) The Respondents shall complete the Disciplinary enquiry ordered against the Applicant within a period not exceeding six months from the date of receipt of a copy of this order. (The completion of Enquiry means the issue of final order by the Disciplinary Authority). Needless to say, it is expected that Applicant will co-operate in the Enquiry as per Rules.

(ii) The issue in regard to the relief sought regarding permission for proceeding abroad is decided as in para (5) above.

(iii) No order as to costs.


(B. N. BAHADUR),
MEMBER (A)


(BIRENDRA DIKSHIT)
VICE-CHAIRMAN.