

J A I P U R .

O.A. No. 713/92

Date of decision: 22.9.93

B.G. BELANI

: Applicant.

VERSUS

UNION OF INDIA & ORS

: Respondents.

None present on behalf of the applicant.

Mr. M. Rafiq

: Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

Hon'ble Mr. O.P. Sharma, Administrative Member

PER HON'BLE MR. O.P. SHARMA, ADMINISTRATIVE MEMBER:

The applicant has filed this O.A. praying that the inquiry instituted against him may be stopped forthwith and the Enquiry Officer may be changed and further that the respondents may be restrained from conducting an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 after retirement of the applicant in respect of matters which are 12 years old and are sub-judice in courts of law.

2. None present for the applicant. We have perused the records and heard the learned counsel for the respondents.

3. The applicant retired from service on superannuation on 31.5.1988. A charge-sheet under Rule 14 of the CCS(CCA) Rules, 1965 was issued to him on 5.10.87. Thereafter, an inquiry against the applicant commenced and continued even after the date of his retirement. Also, a charge-sheet in the court of law was filed against the applicant on the same charges which were the subject-matter of the charge-sheet under Rule 14 of the CCS(CCA) Rules, 1965. On 18.8.88, this Tribunal issued an interim order staying the inquiry proceedings. The said stay order continues till date.

4. Now coming to the applicant's prayer, it is seen that the inquiry proceedings have already been stayed. He had

taken the ground that the Enquiry Officer was biased against him and on that ground, he wanted that the Enquiry Officer should be changed. As and when the respondents resume the inquiry against the applicant, they should appoint another Enquiry Officer to conduct the inquiry from the stage after the submission of the written statements of defence by the applicant.

5. As regards the second prayer of the applicant regarding the respondents ^{being} / debarred from conducting the inquiry after the applicant's retirement, the position stated in Rule 9 of the CCS (Pension) Rules is quite clear. Under Rule 9(2)(a) - the departmental proceedings if instituted while the Government servant was in service shall after retirement of the Government servant, be deemed to be proceedings under Rule 9 of the Pension Rules and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service. Thus, the proceedings initiated while the applicant was in service can be continued even after his retirement. The ground that the charge-sheet pertains to matters which are 12 years old is vague and no complete, detailed grounds have been given by the applicant why these matters should not continue to be dealt with by the aforesaid charge-sheet. Departmental action and criminal proceedings can continue simultaneously.

6. In the circumstances, the O.A. is accepted in part. The interim stay regarding inquiry proceedings is vacated. There shall be no order as to costs.

(O.P. SHARMA)
Administrative Member

(D.L. MEHTA)
Vice-Chairman