

(50)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD.

D.A. No. 900 of 1989

DATE OF DECISION: 22-6-1990

XXXXXX

Between:-

T.S.Ramachandra Murthy Petitioner(s)

Shri K.S.R. Anjaneyulu, Advocate.

Advocate for the  
petitioner(s)

Versus

Union of India & 3 others

Respondent.

Shri Naram Bhasker Rao, Addl.CGSC.

Advocate for the  
Respondent(s)

CORAM:

THE HON'BLE MR. B.N.JAYASIMHA, VICE-CHAIRMAN.

THE HON'BLE MR. D.SURYA RAO, MEMBER (JUDICIAL).

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunals ?
5. Remarks of Vice Chairman on columns 1, 2, 4 (To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

No

*B.N.J.*  
(B.N.J.)

*D.S.R.*  
(D.S.R.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT : HYDERABAD

O.A.No. 900 of 1989

Date of Order: 22-6-1990

Between:-

T.S.Ramachandra Murthy .. Applicant  
and

Union of India represented by

1. The Secretary to Government,  
Department of Posts, New Delhi.
2. The Assistant Director-General  
(Vigilance)  
Office of the Director-General,  
Department of Posts, New Delhi.
3. Director (Vigilance)  
Department of Posts, Dak Bhavan,  
New Delhi.
4. R.S.Goel, Commissioner for  
Departmental Inquiries, C.V.C.  
Room No.10, Wing 8, Jamnagar  
House, Akber Road, New Delhi.

.. Respondents

Appearance

For the Applicant : Shri K.S.R.Anjaneyulu, Advocate.

For the Respondents : Shri Naram Bhasker Rao, Addl.CGSC.

CORAM

THE HONOURABLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.

THE HONOURABLE SHRI D.SURYA RAO, MEMBER(JUDICIAL).  
---

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE SHRI D.SURYA RAO,  
MEMBER (JUDICIAL))

1. The applicant herein is a retired Senior Superintendent of Post Offices, Nellore. He has filed this application questioning the order No.7/25/87/Vig.II, dt.19-9-1988 issued by the 2nd respondent in the name of President of India, and Order No.7/25/86/Vig.II, dated 24-10-1989 issued by the 3rd respondent, framing certain charges against the applicant.

2. The case of the applicant is that a charge memo was issued on 19-9-1988. The charges relate to certain acts of alleged mis-conduct during the period from 1980 to 1983 while xxx he was functioning as Senior Superintendent of Post Offices, Nellore. It is alleged that he has made certain purchases of furniture without calling for open tenders, non-acceptance of the lowest tender, passing of bills without availability of authorised grants, and other irregularities. Apart from stating that the charges relate to minor irregularities which are lapses of procedure which do not warrant any enquiry, the applicant's contention is that there was inordinate delay in framing of the charges namely <sup>a</sup> the period <sup>alleged</sup> of over 5 years has elapsed between the date of occurrence and the date of framing charges. On this main ground the applicant seeks to challenge the charge memo issued and prays for quashing of the same. Another allegation is that the Assistant Director-General (Vigilance), New Delhi, who issued the Charge Memo under the name of President, is not the competent authority to sign the charge memo.

3. On behalf of the respondents a counter has been filed denying the contentions of the applicant. In so far as the power vested in the Assistant Director-General of Posts, New Delhi, to sign the charge memo is concerned, it is contended that he is competent to authenticate orders in the name of President of India by virtue of notification of the Government of India dated 3-11-1958. In regard to delay in framing of the charges, it is contended that the irregularities committed by the applicant came to light only in <sup>the</sup> year 1986 when a complaint against the applicant was received regarding certain mal-practices committed by the applicant in purchase of steel furniture, provision of decolam to furniture and purchase of wall clocks and time pieces while

.../...

he was working as Senior Superintendent of Post Offices at Nellore, A.P.. Necessary enquiries were made which clearly established several irregularities on the part of the applicant. The matter was further processed on the advice of the Central Vigilance Commission and thereafter only the charges were framed against the applicant. The charges being grave, warrant departmental enquiry. It is contended further that there is no bar for initiating action against the ~~the~~ <sup>an</sup> employee on the ground of delay until the ~~the~~ <sup>an</sup> enquiry <sup>much</sup> irregularities and malpractices ~~which~~ came to light later.

In these circumstances the respondents contend that there are no merits on facts or in law warranting any interference by this Tribunal and the application is liable to be dismissed.

4. We have heard the learned Counsel for the applicant Shri K.S.R. Anjaneyulu, and the learned Additional Central Govt. Standing Counsel, Shri Naram Bhaskar Rao, Counsel for the respondents.

5. The first contention raised by the learned counsel for the applicant, Shri KSR Anjaneyulu, is that there has been a long and inordinate delay in framing the charges. He contends that the charges framed relate to the year 1983 whereas the charge sheet was served in the year 1988. In this connection he relies on the decision of the Calcutta Bench of this Tribunal in Dwijendra Lal Chakladhar vs. Union of India (published in 1990 (1) Administrative Tribunals Journal, page 389) in support of his contention that where ~~the~~ <sup>an</sup> enquiry has not been completed within the stipulated period of 6 months, it should be deemed to have been dropped. We are unable to agree with this contention that merely on the ground of delay, all enquiries in disciplinary matters should be dropped. In the instant case the entire case against the applicant is on the basis of records which the applicant can peruse and reply to the charges framed against him. The applicant has

.../...

P

P 341  
16/1/2020

not stated or made out a case as to how prejudice was caused to him due to the delay. Further the respondents have satisfactorily explained the delay namely that the misdemeanours alleged came to light only in 1986. In the circumstances the contention that ~~long~~ long delay is a ground for quashing the charge memo cannot be sustained. The decision cited by the learned Counsel for the applicant -- 1990 (1) ATJ 389 (Dwijendra Lal Chakladhar vs. Union of India) would not apply to the facts of this case. That was a case wherein promotion was denied to an employee due to the pendency of a departmental enquiry against him. In that case the Tribunal held that the enquiry was delayed for over 3 years and that the enquiry must be taken to have been dropped since it has not been completed within 150 days, the period normally fixed by the Railway Board for completion of enquiries and that therefore the applicant therein was entitled to promotion. Thus the decision of the Calcutta Bench in Dwijendra Lal Chakladhar's case can only be an authority for the proposition that long delay in disposing of a departmental enquiry cannot be a ground for denying him promotion. This does not lay down that in all cases of delay in completion of an enquiry, the enquiry proceedings are liable to be quashed.

6. The other plea namely that the Assistant Director-General (Vigilance) is not competent to sign or authenticate the orders issued in the name of the President of India is also untenable. The notification issued under Article 77(2) of the Constitution vide G.O.Ms.No.227, dated 3-11-1958 reads that authorised Under Secretary or Assistant Secretary, Government of India, and the Assistant Director-General in the Department of Communications (P&T Department) can sign orders in the name of President. According to these orders, the Assistant Director-

Q

.../...

PLM  
16/11/24

(56)

General (Vigilance) is competent to sign orders in the name of the President.

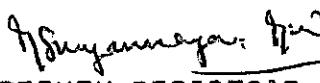
7. For these reasons there is no merit in the application and we accordingly dismiss the same. In the circumstances, there will be no order as to costs. We, however, direct the respondents that the enquiry should be completed expeditiously within six months from the date of receipt of this Order.

( Dictated in the Open Court )

B.N.Jayasimha  
(B.N.JAYASIMHA)  
VICE-CHAIRMAN

  
(D.SURYA RAO)  
MEMBER (JUDICIAL)

Date: 22-6-1990

  
S. S. Rao  
FOR DEPUTY REGISTRAR (J)

To

ccccc

1. The Secretary to Government, Department of Posts, New Delhi.
2. The Assistant Director General (Vigilance), O/o. the Director General, Department of Posts, New Delhi.
3. Director (Vigilance), Department of Posts, DAK Bhawan, New Delhi.
4. R.S.Goswami, Commissioner for Departmental Inquiries, C.V.C, Room No.10, Wing 8, Jamnagar House, Akbar Road, New Delhi.
5. One copy to Mr.K.S.R.Anjanayulu, Advocate, 1-1-365/A, Bakaram, Hyderabad-500020.
6. One copy to Mr.N.Bhaskara Rao, Addl.CGSC, CAT, Hyderabad.
7. One spare copy.

758 last  
7/8  
Notified

CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.B.N.JAYASIMHA:V.C.  
AND  
THE HON'BLE MR.D.SURYA RAO:MEMBER(JUDL.)  
AND  
THE HON'BLE MR.J.NARASIMHAMURTHY:M(J)  
AND  
THE HON'BLE MR.R.BALASUBRAMANIAN:M(A)

✓ DATE : 22.6.90

✓ ORDER / JUDGMENT

C.A./R.A./C.A./No. \_\_\_\_\_ in

✓ T.A. No. \_\_\_\_\_ W.P. No. \_\_\_\_\_

D.A. No. 900/89

Admitted and Interim directions Issued.

Allowed.

Dismissed for default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A.ordered/Rejected.

No order as to costs.

Central Administrative Tribunal  
DESPATCH

19 JUL 1990

HYDERABAD BENCH.