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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD,

O.A. No. 216/93

Date of Order: 26.4.1993

BETWEEN :

S.Venkataramaiah

.. Applicant.

A N D

1. The Secretary to Govt. of India,
Ministry of Personnel & Training,
Administrative Reforms & Public
Grievances and Pensions,
New Delhi.
2. The Chief Secretary to Government
of Andhra Pradesh (General Administ-
ration Department) Secretariat,
Hyderabad.
3. The Chairman, Commissionerate of
Inquiries, General Administration
Department, A.P. Secretariat,
Hyderabad.

.. Respondents.

Counsel for the Applicant

.. Mr.S.Venkataramaiah
(Party-in-Person)

Counsel for the Respondents.

.. Mr.N.B.Devraj and
Mr.D.Panduranga Reddy

CORAM:

HON'BLE SHRI A.B.GORTHY : MEMBER (ADMN.)

HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member (Admn.).

The applicant who is an I.A.S. Officer of 1963 batch has filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying that the impugned order of the second respondent appointing one Sri T. Padmanabhan I.A.S. as the enquiry officer to inquire into the charge memo issued against the applicant ^{be quashed} and that the respondents be directed to appoint a senior officer of the judiciary as an Inquiring Officer in his case.

2. In the year 1984, proceedings were initiated against the applicant ^{under} Prevention of Corruption Act, and steps were taken to obtain sanction of the competent authority to prosecute him before a Competent Civil Court. The said sanction however was not accorded and accordingly State Government decided to initiate departmental disciplinary proceedings against the applicant. A charge memo dt. 5.7.1989 was served and thereafter by means of the impugned order dated 29.10.1992 Sri T. Padmanabhan was appointed to inquire into the Articles of charge framed against the applicant. Aggrieved of the said appointment of Sri T. Padmanabhan, the applicant has approached this Tribunal by means of this application.

3. The respondents in their brief counter affidavit, without disputing the essential facts averred in the application, have stated that although the charge memo ^{was} dated 5.7.1989 and the applicant was required to submit ~~the~~ ^{his} statement of defence within 15 days thereafter, ~~he~~ failed to do so. The applicant was given the last chance on 30.11.1991 to submit his reply. He acknowledged the same on 6.12.1991.

59

but once again he failed to submit his statment in defence. The disciplinary authority, after thus waiting for more than three years for his statment of defence, decided to proceed with the inquiry and accordingly appointed Sri T. Padmanabhan, I.A.S., Chairman, Commissionerate of Inquiries, General Administration Department as the Inquiry Officer. The respondent's case is that the Inquiry Officer has been appointed in accordance with the relevant rules and that no irregularity has been committed in that regard.

4. We have heard the applicant in person and Mr. D. Panduranga Reddy, Special Standing Counsel for the State of A.P., for the respondents.

5. The applicant has placed his challenge to the validity of the appointment of Sri T. Padmanabhan, I.A.S. as Inquiry Officer essentially on the ground that he being a member of the Administration would not be in a position to fairly and impartially conduct the inquiry. The applicant, in support of his contention, led us through the history of the case. On a mere suspicion, according to him, he was placed under suspension in 1984, there-by forcing him to come to this Tribunal to seek justice. The Tribunal set aside his suspension ~~order~~ order and the Administration aggrieved thereby approached even the Supreme Court with an S.L.P. Further, the respondents attempted to compulsorily retire him from service by short circuiting the procedural and the CCS (CCA) Rules. Once again he had to approach the Tribunal which set aside the respondent's action to compulsorily retire him from service. That is why the disciplinary inquiry has been launched against him by the respondents. Keeping in view the background of the case the applicant contended that he would not expect a fair inquiry if the same is held by Sri T. Padmanabhan, against whom he has 2

53

however no personal grudge or complaint. He further contended that the defence that he would lead in the inquiry is of such a nature that a judicial officer alone would be competent to appreciate the same in the correct perspective.

6. The learned counsel for the respondents has drawn our attention to Rule 8(2) and (6)(b) of All India Services (Discipline and Appeal) Rules, 1969, reproduced under:-

(2) " Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a member of the service, it may appoint under this rule or under the provisions of the Public Servants (Inquiries) Act 1850, as the case may be, an authority to inquire into the truth thereof.

(6)(b) "If no written statement of defence is submitted by the member of the service, the disciplinary authority may, if it considers it necessary to do so, appoint, under sub-rule (2), an inquiring authority for the purpose."

In other words, the contention of the respondents is that they acted strictly in accordance with the relevant rules and that the request made by the applicant for appointing a judicial officer to inquire into the charge memo is unwarranted.

7. The appointment of an Inquiry Officer by the disciplinary authority is an Administrative Act. But if the disciplinary authority contravenes the law, the Tribunal can intervene with the act of the disciplinary authority, in the matter. In the discretion of the disciplinary authority, the disciplinary ^{said} authority felt that Sri T. Padmanabhan is a ~~to~~ competent person to conduct the departmental inquiry as against the applicant. The competency of the said Officer to conduct the inquiry is not in question at all before us. Absolutely no bias is attributed as to the inquiry officer by the applicant. ^{No} ~~any~~ principle of natural justice as having been violated is brought to our notice by the applicant in the matter of appointment of the inquiry officer. So, in view

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To

1. The Secretary to Govt. of India,
Ministry of Personnel & Training,
Administrative Reforms & Public Grievances
and Pensions, New Delhi.
2. The Chief Secretary to Government of A.P.
(General Administration Department)
Secretariat, Hyderabad.
3. The Chairman, Commissionerate of Inquiries
General Administration Department,
A.P. Secretariat, Hyd.
4. One copy to Mr. S. Venkataramaiah, Party-in-person,
3-6-150, Himayatnagar, Hyderabad.
5. One copy to Mr. N. R. Deyraj, Sr. CGSC. CAT. Hyd.
6. One copy to Mr. D. Panduranga Reddy, Spl. Counsel for A.P. Govt. CAT. Hyd.
7. One copy to Hon'ble Mr. A. B. Gorthy, M(A) CAT. Hyd.
8. One copy to Hon'ble Mr. T. Chandrasekhar Reddy, M(J) CAT. Hyd.
9. One copy to Deputy Registrar (J) CAT. Hyd.
10. Copy to All Benches as per standard list of CAT. Hyd.
11. One copy to Library, CAT. Hyd.
12. One spare copy.

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of this position the action of the respondents
in appointing the said Padmanabhan as Inquiry Officer has
got to be upheld.

8. The applicant in his application has stated that in the case of one Sri Santhanam the respondents agreed to appoint a Judicial Officer to inquire into the charges against said Santhanam. In this context the respondents' reply is that as Mr. Santhanam approached the Tribunal and obtained a stay of further inquiry w.e.f. 24.2.1986 and since the inquiry could not be proceeded with because of the stay, with a view to expedite the inquiry, a judicial officer was appointed to inquire into the charges against Sri Santhanam.

9. Admittedly the applicant has no personal complaint of bias against Sri T. Padmanabhan, I.A.S. It is easy for him to say that in view of the prevailing atmosphere in the department that Sri T. Padmanabhan would not be able to conduct the inquiry fairly and impartially. We cannot accept such a contention. Sri T. Padmanabhan being an I.A.S. Officer of considerable experience and seniority is expected to know his responsibility as an inquiry officer when so appointed. Merely on the basis of the apprehension of the applicant, it will not be proper for this Tribunal to intervene at this stage and to direct the respondents to change the inquiry officer and to appoint a judicial officer as demanded by the applicant.

10. In view of what is stated above, we find no merit in this application. The same is rejected at the admission stage itself. The interim order passed earlier stands vacated and MA.287/93 also stands disposed of. The parties shall bear their own costs.

T. Chandrasekhara Reddy
(T. CHANDRASEKHARA REDDY)
Member (Judl.)

B. B. Gorthi
(B. B. GORTHI)
Member (Admn.)

Dated: 26th April, 1993
(Dictated in Open Court)

sd

8/5/93
Deputy Registrar (S)

TYPED BY COMPARED BY
CHECKED BY (6) APPROVED BY

Roue
11/5/93
IN THE CENTRAL ADMINISTRATIVE
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

A. B. Goudhy
THE HON'BLE MR. K. BALASUBRAMANIAN :
MEMBER (ADMN)

AND

THE HON'BLE MR. T. CHANDRASEKHAR
REDDY : MEMBER (JUDL)

DATED: 26 - 4 - 1993

~~ORDER~~ JUDGMENT

R.P./ C.P/M.A.No.

in

O.A.No. 216/93.

T.A.No. (W.P.No)

Admitted and Interim directions
issued.

Allowed.

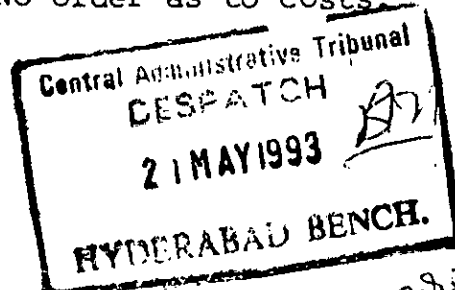
Disposed of with directions
Dismissed as withdrawn.

Dismissed

Dismissed for default.

Ordered/Rejected.

No order as to costs.



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