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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.405/99

DATE OF ORDER : 7th April,1999.

Between :-

A.Rayappa

... Applicant

And

1. Sr.Dy.General Manager-cum-Chief
Vigilance Officer, S.C.Railway,
Rail Nilayam, Sec'bad.
2. Sr.Divisional Operative Manager,
BG Sec'bad Division, Sanchalan
Bhavan, Sec'bad.
3. Sri P.Madhusudan Babu

... Respondents

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Counsel for the Applicant : Shri V.Durga Prasad Rao

Counsel for the Respondents : Shri N.R.Devaraj, SC for Rlys

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CORAM:

THE HON'BLE JUSTICE SHRI D.H.NASIR : VICE-CHAIRMAN

THE HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (A)

(Per Hon'ble Justice Shri D.H.Nasir, Vice-Chairman).

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... 2.

O R D E R

(Per Hon'ble Justice Shri D.H.Nasir, Vice-Chairman).

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The respondents are sought to be restrained from conducting preliminary inquiry without furnishing the documents so as to enable the applicant to submit his explanation in connection with the charges contained in letter dated 12.6.1998. The respondents are also sought to be directed to give the applicant reasonable opportunity to submit his explanation by postponing the preliminary enquiry, if necessary.

2. The applicant is a Graduate. He was appointed as Railway Guard on 1.8.1978. From 1989 to 1990 he was working as Investigating Inspector, Railway Board, New Delhi and from 1991 to 1994 he worked as Vigilance Inspector (Traffic), South Central Railway, Secunderabad. A notification was issued by the South Central Railway in 1994 for filling up the posts of Inquiry Inspector in the scale of Rs.2000-3200 (RSRP).. The applicant was selected as a suitable candidate for the post of Inquiry Inspector.

3. The first respondent issued three Memorandums dated 18.11.1997, 3.12.1997 and 5.12.1997 calling for the applicant's explanation regarding the findings recorded by

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him in Vigilance cases.

4. The main grievance expressed by the applicant in this OA is to the effect that the respondents failed to furnish the documents relied upon by the Inquiry Officer and the Progress Reports from 1.1.1997 to 1.1.1998 so as to enable the applicant to file proper explanation to defend his own case.

5. The respondents have not filed any counter affidavit opposing the legality of the claim advanced by the applicant. The learned Standing Counsel Mr. Devaraj for the respondents, however orally resisted the applicant's case on the ground that this was not the stage where the applicant could legitimately call upon the respondents to produce the documents upon which the respondents were relying and that such a requisition could be made by the applicant only after inquiry enters the stage of recording oral evidence. We are, however, of the opinion that in matters of departmental inquiries which are of the nature of the domestic enquiries, rules of procedure need not be very strictly construed and the principles of natural justice may be given precedence, if in a given case the situation so demands.

6. We therefore believe that the ends of justice would be served if the documents on which the department wants to rely are placed for inspection of the applicant by the department in the presence of the Inquiry Officer so as to enable the

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applicant to prepare his defence statement and submit the same in the inquiry proceedings.

7. This O.A. therefore deserves to be disposed of, without insisting upon strict adherence to procedural formalities in the progress of the Inquiry. Indeed no fishing inquiry could be permitted in the guise of inspection of documents for enabling the delinquent to prepare his defence statement, or to call upon the respondents to produce the documents which may have no relevancy to the facts of the case.

8. It may not be out of place to say that Government or Semi-Government bodies should ordinarily desist from taking advantage of any technicalities in the interest of justice so that justice could be rendered on the substantive aspect of the case rather than defeat the same on mere technicalities. "Transparency" should always be the sine qua non of the Government approach in the Courts of Law/Tribunals.

9. In that view of the matter, therefore, the applicant may be permitted to call upon the Department through the Inquiry Officer to allow him inspection/production of documents by clearly specifying each such specific document.

10. This O.A. is, therefore, disposed of with the following directions :-

- (1) The applicant shall submit a list giving particulars of specific documents to be produced from the custody of the department which the

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applicant desires to look into for the purpose of preparing his defence statement.

(ii) After allowing the inspection/production of the documents, the Inquiry Officer shall permit the applicant to file his defence statement within a reasonable time.

(iii) The Inquiry Officer shall resume the inquiry proceedings thereafter and conclude the same as expeditiously as possible.

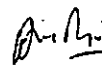
(iv) The applicant shall extend full co-operation in the progress of the inquiry and shall not give any cause for delay in concluding the inquiry proceedings.

9. No order as to costs.


(H. RAJENDRA PRASAD)
Member (A)


(D.H. NASIR)
Vice-Chairman

Dated: 7th April, 1999


7-4-99

DJ/avl