

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH  
JAIPUR.

O.A. No.223/93

Dt. of order: 27.7.1993

R.C.Sharma

: Applicant

Vs.

Union of India & Ors. : Respondents

Mr.P.V.Calla : Counsel for Applicant

Mr.K.P.Mishra : Counsel for respondents

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

Hon'ble Mr.P.P.Srivastava, Member (Adm.)

PER HON'BLE MR.JUSTICE D.L.MEHTA, VICE CHAIRMAN.

Heard the learned counsel for the parties. This is the third petition the applicant has filed before this Tribunal. The applicant is facing enquiry in the matter of alleged misconduct committed by him in the year 1982. The charge sheet was served upon the applicant in the year 1984 and it is an admitted position that the Inquiry Officer has submitted his final report in the year 1988 and the Disciplinary Authority has not passed any order in spite of the fact that the Inquiry Report has been submitted before 5 years.

Mr.K.P.Mishra, appearing on behalf of the respondents does not dispute the position. He submits that the matter has been referred to the Union Public Service Commission for its opinion. It will not be out of place to mention here that O.A.No.590/90 was decided by this Tribunal on 18.3.93 after hearing both the parties and directions were given to pass the final order in the disciplinary proceedings within a period of one month.

It was also mentioned therein that in case the final orders <sup>was</sup> not passed within one month then the applicant <sup>would</sup> have a cause to file a fresh petition and

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adverse inference will be drawn against the respondents for with-holding the order. The respondents have failed to issue the final order though a fresh petition has been filed by the applicant. Shri K.P. Mishra, appearing on behalf of the respondents further submits that the matter is still pending and he prays further time. Further time cannot be allowed. Two petitions have already been disposed of only on this ground and the matter is pending for the last 5 years. To keep 5 years without decision in a disciplinary proceeding and to with-hold promotion of the officer on ~~one~~ one of the grounds that a Departmental Enquiry is pending against him is not justified. It is nothing less than a punishment particularly when the respondents are not vigilant in the discharge of their duties. We direct that the case of the applicant should be considered afresh for promotion ignoring the pendency of the departmental enquiry and necessary orders may be passed. In case if the God gives the Administration light to consider the case of the applicant and early disposal of it, then the respondents have a right to review their order ~~after final~~. The respondents should consider the case of the applicant ~~on the basis of~~ within 3 months or ~~that~~ any recommendation for future promotion pending with them whichever is earlier. With this observation the O.A. is disposed of. Parties to bear their own costs.

  
(P.P. Srivastava)  
Member (Adm.)

  
(D.L. Mehta)  
Vice Chairman.