

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.44/97

Date of order: 11/4/2001

P.D.Bunkar, S/o Sh.Laduram, R/o Bunkar's Samaj Colony,
West Katipura, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary, National Saving Organisation, Mini.of Finance, Deptt.of Economic Affairs, New Delhi.
2. Regional Director, NSO, Vitt Bhawan, 4th Floor, C-Block Jyoti Nagar, Jaipur.
3. National Savings Commissioner, NSO, Banglow No.12, Seminary Hills, Nagpur.

...Respondents.

Mr.Manish Bhandari - Counsel for applicant

Mr.Hemant Gupta, Proxy of Mr.M.Rafiq - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A under Sec.19 of the Administrative Tribunals Act, 1985, applicant makes a prayer to quash the charge sheet dated 12.12.96.

2. Facts of the case as stated by the applicant are that a Criminal Case No.24/81 was instituted against the applicant and others. The applicant was convicted and sentenced to 4 months rigorous imprisonment and a fine of Rs.500/- in default of payment of fine, one month's rigorous imprisonment. The applicant preferred an appeal which was decided by the Distt. Judge, Jaipur District, vide its judgment dated 1.6.89 and acquitted the applicant by giving him benefit of doubt. Thereafter, the applicant was served by a charge sheet dated 12.12.96 which is pending. It is stated that the applicant was

served with a charge-sheet in the year 96 whereas he was acquitted vide order dated 1.6.89 and after more than 7 years, the charge-sheet was served on the advice of CBI malafidely with a view to harass the applicant. It is stated that no progress has been made after serving the charge-sheet to the applicant in the disciplinary proceedings for the last 5 years and the same is pending, therefore, the chargesheet is liable to be quashed.

3. Reply was filed. In the reply, it is stated that the delay in serving the charge sheet has been properly explained. The record pertaining to this case was not returned till the disposal of the revision petition by the High Court. It is stated that the disciplinary proceedings were initiated against the applicant is in no way malafide and there is no bar that after acquittal the disciplinary proceedings cannot be initiated against the delinquent govt servant as the applicant was acquitted by giving the benefit of doubt. Therefore, the applicant has no case and the O.A devoid of any merit is liable to be dismissed.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The counsel for the applicant has argued that the applicant was acquitted by the appellate Court in the year 1989 but the charge-sheet was served upon the applicant on 12.12.96. He also argued that after serving the charge-sheet no progress has been made in the pending disciplinary proceedings. He further argued that on similar set of facts no charge-sheet could have been issued to the applicant after the lapse of 7 years. In support of his contentions, he has referred to (i) State of Madhya Pradesh Vs. Bani Singh & Anr, 1990 LAB.I.C.1488, (ii) 1999 3 SCC 679, Capt.M.Paul Anthony Vs. Bharat Gold Mines Ltd. & Anr, and (iii) 1998 SCC(L&S) 466.

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On the other hand, the counsel for the respondents has argued that the delay has been properly explained in the reply and no malafide has been attributed to any one, therefore, looking to the grave charges, the disciplinary proceedings the disciplinary proceedings should not be quashed.

6. We have given anxious consideration to the rival contentions of both the parties and also perused the whole record.

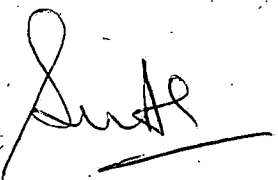
7. In the case of Capt.M.Paul Anthony (supra), Hon'ble Supreme Court held as under:

(i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

(ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.

(iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge-sheet.

(iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation, to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.



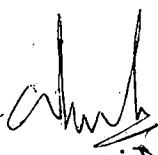
against the applicant were initiated after his acquittal in the criminal case by the appellate court, the delay in serving the charge-sheet has been explained by the department as CBI did not deliver the original record to the department till the decision of the revision petition, filed against the order of acquittal by the District Judge, Jaipur District.

11. As regards the fact that no progress has been made in the disciplinary proceedings after 1996, there is no evidence to this effect that this was mainly due to the negligence on the part of the respondents. The charge against the applicant is that agency commission amounting to Rs.2331.20 were encashed in the name of his wife Smt.Chandravati, without any deposit in conspiracy of the applicant.

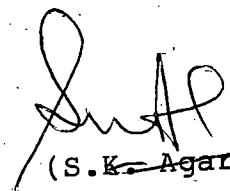
12. We, therefore, do not find any basis to quash the charge-sheet as prayed by the applicant in this O.A.

13. We, therefore, dispose of the O.A with the direction to the respondents to conclude the disciplinary proceedings pending against the applicant, within a period of 6 months, from the date of passing of this order. The applicant is expected to cooperate in the disciplinary proceedings so that the disciplinary proceedings may be concluded in the stipulated period.

14. No order as to costs.


(N.P.Nawani)

Member (A).


(S.K. Agarwal)
Member (J).