

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 14/2/98

OA 142/98

Mahesh Chandra s/o Late Shri Ganga Sahai r/o 533, Mahavir Nagar, Tonk Road, Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Ministry of Urban Affairs and Employment, Nirman Bhawan, New Delhi.
2. Director General (Works), CPWD, Nirman Bhawan, New Delhi.
3. Commissioner for Departmental Enquiry, Central Vigilence Commission, Block No.10, Jamnagar House, Akbar Road, New Delhi.

... Respondents

CORAM:

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

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant ... In person

For the Respondents ... Mr.V.S.Gurjar

O R D E R

PER HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

Applicant, Mahesh Chandra, in this application u/s 19 of the Administrative Tribunals Act, 1985, has prayed that the decision of the disciplinary authority to initiate disciplinary action against the applicant vide order dated 1.7.97 may be declared illegal and the memo dated 16.1.98 (Ann.A/1), rejecting the representation of the applicant,

(Signature)

be quashed and the inquiry officer be restrained to proceed further in the matter.

2. Applicant's case is that he entered the respondent department as Sectional Officer (Junior Engineer) on 21.6.57. He was promoted to the post of Assistant Engineer in 1980 and thereafter as Executive Engineer in the year 1992. He was served with a charge-sheet for major penalty on 1.7.97 and his representation against the said charge-sheet was rejected and he was asked to participate in the inquiry proceedings vide respondents' letter dated 16.01.98. Contention of the applicant is that he is being prosecuted against an alleged misconduct that occurred four years earlier and in the meantime the applicant had retired and that in terms of Rule-9(2)(b) of the CCS (Pension) Rules, no charge-sheet can be issued for an event that occurred more than four years earlier, hence this application.

3. In the counter it has been stated by the respondents that the event for which the charge-sheet was issued occurred on 3.7.93 and the charge-sheet was issued on 1.7.97 i.e. after four years of the event.

4. Heard the applicant and the learned counsel for the respondents.

5. The established legal position is that the Tribunal or court should not interfere when inquiry is midway. The Chennai Bench of the Central Administrative Tribunal in

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N. Haribhaskar, IAS v. Sri K.E.Varadan, Inquiry Officer & Ors, 2001 (1) SLJ (CAT) 29, has held that the Tribunal should not interfere in disciplinary proceedings especially when the inquiry has come to a final stage. In dismissing the said OA, the Chennai Bench has observed, as under :-

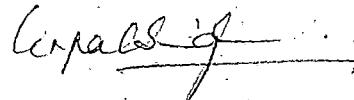
"10. That apart, it is settled law that the Inquiry Report is not binding on the disciplinary authority and it is open for the disciplinary authority to accept or reject the findings of the Inquiry Officer. It is always open to the applicant to challenge any final order passed on the ground that no reasonable opportunity has been given as contemplated under Article 311(2) of the Constitution of India or under the Rules framed under Article 309 of the Constitution of India. In our view, to interdict at the intermediary stage of any disciplinary inquiry is wholly unwarranted. It is always open to the applicant after the final orders were passed, to contend that reasonable opportunity was not granted to the applicant because of the non-examination of witnesses and prejudice has been caused by the non-examination. We are of the view, that the Tribunal should not interfere at this stage, especially when the Inquiry has come to a final stage. We see no merit in this application and accordingly the application shall stand dismissed. No costs."

In that case, the applicant therein had sought a direction to permit him to produce the former Additional Secretary to

Complaint

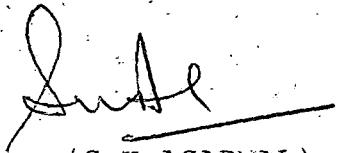
Government of India and also for a direction for appearance of the said person as a witness while the inquiry was on. In the instant case, the inquiry officer has already been appointed and it has been informed by the applicant himself that the inquiry is over but the inquiry report has not yet been issued. Thus, in our view, the case in hand is squarely covered by the judgement of the Chennai Bench (supra). In the light of the above discussion, we do not find any merit in this OA and the same deserves to be dismissed.

6. The OA is accordingly dismissed with no order as to costs.



(GOPAL SINGH)

MEMBER (A)



(S.K. AGARWAL)

MEMBER (J)