

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 131 of 2001

Jabalpur, this the 13th day of August 2003.

Hon'ble Mr. J.K. Kaushik, Judicial Member
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Gendalal Padam (Indian Forest Service)
S/o Shri Nawalshah Padam
aged - 66 years
Conservator of Forests (Retired)
Bhagat Singh Marg (Tikari Road),
Betul (M.P.) 460 001

APPLICANT

(By Advocate - Shri R. C. Tiwari)

VERSUS

1. The Union of India
Through the Secretary, Govt. of India,
Environment and Forest,
CGO Complex,
Lodhi Road,
New Delhi.
2. The State of M.P.
Through the Principal Secretary Forest,
Vallabh Bhawan,
Bhopal.
3. The Chief Conservator of Forests,
Administration Gazetted
Satpura Bhawan,
Bhopal
4. The Accountant General
Madhya Pradesh,
Gwalior.

5. Deleted

RESPONDENTS

(By Advocate - Shri B.da.Silva appearing for respondents
Nos 1 to 3.
Shri P.Shankaran appearing for respondent No1)

O R D E R

By J.K. Kaushik, Judicial Member -

Gendalal Padam has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 inter alia praying for quashing the charge-sheet dated 29.8.1992 and to release all consequential benefits to the applicant, including retiral benefits and the payment be made with interest.

2. The material facts necessitating filing of this
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Original Application are that the applicant was initially appointed as Assistant Conservator of Forests on 1.4.1964 in the State of Madhya Pradesh after requisite training. Thereafter, he worked on the post of Deputy Conservator of Forests and he retired on superannuation from service on 31.8.1992. On the date of his retirement he was served with a charge-sheet on the date of his retirement containing two fictitious charges. He denied the same and a regular enquiry was conducted by the enquiry officer who finalised the enquiry and did not find the applicant guilty of any of the charges vide enquiry report dated 17.1.1997.

3. Further case of the applicant is that he was served with a notice of disagreement vide Annexure-A-3 along with a copy of the enquiry report. He submitted the reply to the same that he was not guilty of any of the charges. Certain time schedule has been provided as per which the period of one year has been prescribed for completion of the departmental enquiry, but in the instant case the enquiry was initiated in August, 1992 and despite submission of the enquiry report in 1996, the matter has been kept pending and the final decision has not been taken. His retiral dues have been withheld for none of his fault. Even his confirmation and promotion at par with his next junior have been withheld and he was not even confirmed on the post of Indian Forest Service. Rule 9 of the M.P. Civil Services Pension Rules, 1976 has not been adhered to. The Original Application has been filed on number of grounds mentioned in the Original Applications.

4. Separate replies have been filed on behalf of respondents 2 & 3 and on behalf of respondent no.4. As per the reply filed on behalf of respondent no.4, provisional pension has already been sanctioned to him and the PPO could not be issued since no enquiry certificate was not issued. Order for DCRG was also issued. The action of the respondents is in consonance with the rules. The

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respondent no.2 has been remanded to expedite the same so that necessary orders can be passed on the subject without any further delay. As per the reply filed on behalf of respondents 2 and 3 it has been averred that since the penalty on the applicant can only be imposed with the approval of the Union of India, the matter is pending before the Union of India for grant of approval. The claim preferred by the applicant for quashing of the charge sheet is untenable because he would have a right to file an appeal against the decision of the competent authority. His other reliefs are subject to the finalisation of the disciplinary proceedings. Certain details have been given regarding the payment of retiral dues in relation to provisional pension, GIS, provident fund, encashment of earned leave etc. It is stated that the amount of DCRG is not being released as per the rules since the departmental proceeding is shortly reaching to its conclusion and the State Government has already proposed a punishment and sent the same to the Union of India. Therefore, the claim of the applicant for quashing the charge-sheet is not tenable in the eyes of law at this stage. The Original Application, therefore, deserves to be dismissed.

5. A short rejoinder has also been filed in this case.

6. We have considered the rival contentions raised on behalf of the parties. Admitted position of the case is that the disciplinary authority has disagreed with the findings of the enquiry officer and has served a notice to the applicant holding the charges as partially proved and on this the State Government has recommended 5% cut from his pension and the matter is pending with the Union of India for taking a final decision. There is no dispute regarding the fact that the enquiry report was submitted in the year 1997 and thereafter about six years have passed. The significance of early disposal of the disciplinary proceeding has been emphasised by the Hon'ble Supreme Court

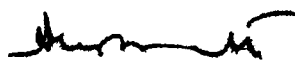
in State of Rajasthan Vs. B.K. Meena and others, AIR 1997 SC 13 wherein it has been specifically observed that it is in the interest of the individual as well as in the interest of the administration that the proceedings are expeditiously concluded. The delay in such cases really works against them. It has also been held in number of other cases that it would be in the fairness of the administration that disciplinary proceedings are concluded expeditiously. In the present case the applicant is a retired Government servant and his retiral dues are withheld. Meaning thereby his complete resettlement is obstructed. Even in criminal cases the right to speedy trial has been held to be one of the fundamental right as enshrined in Article 21 of the Constitution. Similar proposition of law would apply to the disciplinary proceedings also. We are constrained to observe that there has been abnormal delay in finalisation of the enquiry proceedings in the instant case. We also do not find that there is any cogent reason for such an inordinate delay. It would have been justified for quashing the complete proceedings in the present case on the ground of inordinate delay, but keeping in view the facts and circumstances of the case we would like to give a last opportunity to the respondents to decide the matter within a time bound period, as as to meet the ends of justice to the applicant as well as to the respondents.

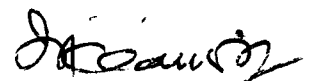
7. In view of what has been said and discussed above, the Original Application is disposed of with a direction to the respondents to finalise the disciplinary proceeding being held in pursuance with the charge-sheet dated 29.8.92 (Annexure-A-2) within a period of two months from the date of receipt of a copy of this order, failing which the complete disciplinary proceedings shall stand dropped and the



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applicant would be entitled to all his due benefits as if no such disciplinary enquiry proceeding was ever instituted against him. It is made clear that no request for further extension of time shall be entertained and we are consciously giving a special opportunity to the respondents for finalisation of the disciplinary proceedings. There shall be no order as to costs.


(Anand Kumar Bhatt)
Administrative Member


(J.K. Kaushik)
Judicial Member

rkv.

प्रमाणित सं औ/न्या.....जलपुर, दि.....
प्रमाणित भवे शिल -

(1) जलपुर न्यायालय, जलपुर

(2) जलपुर न्यायालय, जलपुर


(3) जलपुर न्यायालय, जलपुर

(4) जलपुर न्यायालय, जलपुर

सूचना एवं आवश्यक कार्रवाई हेतु

उप राजस्वर

R.C. Dwivedi -
P. Shankar - & B. Das


14/8/03

Issued
On 14-8-03
BS