

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

.....

original Application No. 958/2000

Jabalpur, this the 12th day of March, 2004

HON'BLE SHRI M.P. SINGH, VICE CHAIRMAN
HON'BLE SHRI MADAN MOHAN, MEMBER (J)

Brij Mohan Adivasi
s/o Sh. Babu Lal Prasad,
Aged 40 years, Planetabler, Gr.II No.60,
Party (CC), Survey of India,
Gwalior.
R/o J-425, Darpan Colony,
Thatipura, Morar, Gwalior.

...Applicant

(By Advocate: Shri Rajneesh Gupta)

-versus-

1. Union of India through
Secretary,
Dept. of Science & Technology,
New Mrbali Road,
Technology Bhawan,
New Delhi.
2. The Surveyor General,
Survey of India,
Govt. of India, P.B.No. 37,
Hathi Burkala State,
Dehradoon.
3. The Additional Surveyor General,
west Zone, R-7, Udhisteer Marg,
C-Skeem, Jaipur(Rajasthan).
4. Director,
Survey of India, Central Circle,
314, Napier Town,
Jabalpur (MP).
5. The Superintendent,
Office Commanding No. 60,
Party Tansen Road Hazirya,
Survey of India,
Gwalior (MP).

..Respondents

(By Advocate: Shri P.S. Shankaran)

O R D E R

By Shri Madan Mohan, Member (J):

By filing this O.A. the applicant has sought the following reliefs:-

- i) to call for the record of departmental disciplinary proceedings for the kind perusal and satisfaction of this Hon'ble Tribunal;

ii) to quash the whole departmental enquiry proceedings including the suspension order Annexure A-6, the chargesheet Annexure A/7 and reinstate the applicant in service along with all benefits, pay and salary etc. holding that on the same set of charges, evidence and witnesses the departmental enquiry cannot be conducted along with the criminal trial pending in the court of law.

2. The brief facts of the case are that the applicant was posted under respondent no. 4 and his immediate superior officer was respondent no. 5 who was habitual of misbehaviour with the supporting staff posted under him. On 11.8.1999 at 9.30 a.m. when the applicant reached in the office and entered into the chamber of respondent no. 5 for marking his attendance on which the said respondent no. 5 i.s. Sh. Navin Tomar said him that office time is 9.00a.m. on which the applicant replied that due to rain he has become late. Shri Tomar furiated and started abusing filthily in the name of his mother and caste. Thereupon the applicant requested him not to utter such language but Shri Tomar again furiated and inflicted feast blow/punch on his nose causing severe bleeding from the nose of the applicant and in the meantime his other two subordinates clutched his arms and legs and then Shri Tomar laid the applicant on the ground and kicked him by foot with the intention to kill him. On making hue and cry by the applicant other staff members came there on which Shri Tomar said that what these people would do, I will kill him and will take away his service. At that time so many persons were there and witnessed the incident. The applicant lodged an FIR against Shri Tomar as per Annexure A.1. The applicant came to know that Shri Tomar had also lodged an FIR against him. The applicant was medically examined.

3. On the complaint of Shri Tomar, police filed challan in the court against the applicant but did not take any action against Shri Tomar on the complaint/FIR of the applicant. The employee union intervened and on 6.9.1999(A/5)

a compromise arrived at. It was held and concluded that the police report and the criminal case pending against the applicant would be withdrawn. The said compromise was also signed by the respondent no. 4. Contrary to the aforesaid compromise and agreement, the respondent no. 4 issued an order against the applicant by placing him under suspension vide order dated 17.9.1999(Annexure A-6). Respondent no. 4 also issued chargesheet to the applicant on 25.9.2000. Several documents and material, as shown in the chargesheet, were not supplied to the applicant. The applicant, therefore, moved an application/for supply of those documents but the respondents did not supply the same. Even in absence of the documents demanded by the applicant, he replied to the to the chargesheet by explaining the whole episode and circumstances and denied the charges levelled against him. The applicant also moved an application through proper channel for the purpose of fair and impartial departmental proceedings requesting the respondents to transfer Shri Tomar to some other place so that he may not affect the enquiry proceedings and temper with the evidence, but it was not done. It is worth to mention that there was no fault on the part of the applicant in the way of progress of the enquiry but the delay is being caused by the respondents and subsistence allowance of the applicant is also not changed as per Rules. only on two occasions, the applicant could not remain present in the proceedings due to marriage of his neice and death of his mother. Hence, the applicant has not caused any delay in the proceedings of the enquiry. But even on the aforesaid two reasons, the applicant was denied for subsistence allowances @ 75% although he was entitled for the same.

3.1 Shri Tomar would adversely affect the enquiry proceedings prejudicial to the interest to the applicant and would also take revenge from other officials, who are witnesses of the applicant. Further more, the evidence and the witnesses of the prosecution are the same which are

also to be examined in the criminal case apart from the enquiry proceedings. It is also submitted that if the applicant anyhow in the enquiry gives his defence by producing the evidence and witnesses on the charges levelled against him in that eventuality his defence in the trial will be prejudiced and the same will adversely affect the conclusion of the criminal trial.

4. Respondents have filed their reply denying the allegations of the applicant mentioned in the O.A.

5. Heard the learned counsel for both the parties and have carefully perused the pleadings.

6. Learned counsel for the applicant argued that the suspension of the application is continuing for the last more than 4 years. The applicant has also moved an MA No.1290 of 2003 dated 3.9.2003 for directions to the respondents to review the suspension of the applicant as there is inordinate delay in continuing the applicant under suspension. It is argued that the applicant is absolutely innocent and he has not committed any offence at all but he has been placed under suspension without any reasonable and justifiable ground whereas on the FIR of the applicant, the police has neither taken any action nor submitted any challan in the court so far. Hence, he is entitled for the relief, as prayed for in the O.A.

7. Learned counsel for the respondents has argued that the department itself is initiating the proceedings properly and it is not causing any unnecessary delay. At this stage, the relief sought in the O.A. cannot be granted.

8. After careful consideration of the rival contentions, we are of the opinion that there is an inordinate delay of more than 4 years of the suspension of the applicant i.e. since 17.9.1999 but it is prerogative of the respondents to revoke or continue the suspension of the applicant. However, since there is an inordinate delay of four years, the respondents are directed to review the suspension of the applicant

In accordance of the applicant in accordance with the guidelines contained in CCS(CCA) Rules, 1965 within a period of two months from the date of communication of this order.

9. With the above directions, the O.A. as well as the MA No. 1290/2003 are disposed of with no order as to the costs.


(MADAN MOHAN)
MEMBER (J)


(M.P. SINGH)
VICE CHAIRMAN

/na/

Madan Mohan
Member (J)
M.P. Singh
Chairman
R. Singh
P. Shankar
H. Bhandari
15/3/04

Issued


15.3.04