

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI..5

ORIGINAL APPLICATION NO: 91/94

MISC. PETITION/ REVIEW APPLICATION/C RT. PETITION NO.

..... A. Malik APPLICANT(S)
VERSUS
..... NO 2 yrs RESPONDENT(S)
..... Mr. B. Das APPLICANT(S)
..... Mr. H. K. Sarma
..... Mr. S. Ali v. C. G. S. C. G. A. Assam RESPONDENT(S)

OFFICE NOTE

DATE

COURT'S ORDER

5.4.94.

Heard learned counsel Mr B.Das on behalf of applicant Shri Abdul Malik, IAS. Perused statement of grievances and reliefs sought for in this application.

This application is admitted. Issue notice on the respondents under Registered Post. Learned Sr.C.G.S.C. Mr S.Ali and learned Sr.Govt.Advocate Assam Mr Y.K.Phukan receives copy of this application and prays for one month time to get instructions and to file counter/written statement if any. Time allowed as prayed for.

List on 11.5.94 for counter and further orders.

V. K. Phukan
Vice-Chairman

Mr. S. Ali
Member

This application is in form and within time. C.F. of Rs. 50/- deposited vide IPO/BN No. 862/116 Dated 4.4.94

By Registrar (A)

acs

Required on 5.4.94 & on v.no. 1400-402 dt. 8.4.94

10-5-94

Counter has not been filed

11.5.94

Heard learned counsel Mr B. Das for the applicant, Shri Abdul Malik, IAS. Also heard learned Sr. C.G.S.C. Mr S. Ali and learned Government Advocate, Assam, Mrs M. Das. The applicant has filed this application praying for the following reliefs: Firstly, promotion to officiate in the selection grade of IAS with effect from 28.2.1994; and Secondly, to direct Respondent No.1, (a) to provide copies of all documents indicated in the articles of charges and statement of allegations and to also give opportunity to inspect the connected files/notesheets where applicant passed orders as alleged in the charges; (b) to provide opportunity to inspect the file relating to fixation of value of land referred to in charge No.3 by the applicant's successor Shri T. Hussain; (c) to provide copy of the relevant complaint and report of the officials of the Anti-Corruption Branch of the Government of Assam on the basis of which the Disciplinary Proceeding had been initiated vide Memorandum No.AAP.142/92/68 dated Dispur the 23rd June 1993 with article of charges and statement of allegations.

Mr B. Das submits that during pendency of this application, the applicant has been promoted to officiate in the Selection Grade of IAS with effect from 28.2.1994 and, therefore, the grievance in this regard is not now pressed. Perused the copy of the Notification No.AAP.123/93/56 dated Dispur the 11.4.1994 promoting the applicant, Shri Abdul Malik, IAS to the Selection Grade. Thus, the first grievance is fulfilled.

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Heard counsel of the parties with regard to the second grievance/grievances. The applicant is facing Disciplinary Proceedings with article of charges and statement of allegations under Memorandum No.AAP.142/92/69 dated Dispur the 23.6.1993 of the Government of Assam, Department of Personnel(A), Dispur. The applicant is required to file written statement in defence to the proceeding and for that matter he is entitled to get copy of the documents and also to inspect the relevant files/notes referred to/indicated in the charges and in the statement of allegations which may be utilised to establish the charges against him. On the prayer of the applicant, the Government vide letter dated 14.7.1993 permitted applicant to inspect the relevant documents on 4.8.1993. But on that day the Deputy Secretary (Personnel), Government of Assam could not produce/place the files/records/notes for inspection of the applicant and he informed the authorities that the written statement could not be filed for non-availability of relevant records. Thereafter, the applicant was informed by the respondent No.1 vide letter dated 25.11.1993 that he was not entitled to inspect the documents. This led the applicant to make the second grievance/grievances in this application.

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The communication by respondent No.1 vide letter dated 25.11.1993 to the applicant denying copy of relevar

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documents and inspection of files/ records was not justified under the rules. We hold that the applicant is entitled to get copy of the documents and inspect the files/notes/orders as prayed for in order to enable him to file written statement in defence of the charges. Therefore, we make the following directions on the respondent No.1 to comply within thirty (30) days from the date of receipt of copy of this order:

(1) The respondent No.1 shall, provide/supply copy of all documents indicated in the article of charges and statement of allegations to the applicant.

(2) The Respondent No.1 shall extend opportunity to the applicant to inspect the connected files/ notes/orders as alleged in the charges.

(3) The respondent No.1 shall also extend opportunity to inspect the file/record relating to fixation of value of land referred to in charge No.3; and,

(4) The respondent No.1 shall also provide/supply copy of the complaint and report of the officials of the Anti-Corruption Branch of the Government of Assam on the basis of which the disciplinary proceedings had been initiated under Memorandum No.142/92/68 dated Dispur the 23.6.1993 with article of charges and statement of allegations.

The applicant shall submit the written statement in the

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Disciplinary Proceeding within three weeks (21 days) from the date of receipt copy of the documents and inspection of files/records. Thereafter, the Disciplinary Proceedings should proceed in accordance with rules. It is further directed that the applicant shall fully cooperate with the authorities (Disciplinary and Enquiry) in all matters relating to progress of the proceedings.

This application is disposed of with the above directions.

Intimate all concerned.

Shagor
Vice-Chairman

600
Member

Copy of the order may be furnished to the counsel for the parties.

nkm

By Order:

11/5/94

17.5.94

Copy of order dtd. 11.5.94 issued to all concerned by Regd. Post and their counsel also vide dt. No. 2004-2010 dt. 17.5.94.

12/5/94

[Signature]

~~3-8-94~~

Ref. cord.

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