

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.2049/2016

Friday, this the 29th day of July 2016

Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)

Altamash Ali
Regional Provident Fund Commissioner
s/o Ali Ashraf
Aged about 44 years
r/o Block C, Flat No.11/6
Green Tower, Golf Green
Kolkata - 700095

..Applicant

(Mr. Mukul Gupta, Senior Advocate and Mr. Sanjeev Joshi, Mr. Zartab Anwar and Mr. Shadab Anwar, Advocates with him)

Versus

1. The Secretary
Govt. of India
Ministry of Labour and Employment
Shram Shakti Bhawan
Rafi Marg, New Delhi – 110 001
2. The Chairman
Central Board of Trustees (CBT)
Employees Provident Fund Organization
Bhavishya Nidhi Bhawan
14, Bhikaji Cama Place
New Delhi – 110 066

..Respondents

O R D E R (ORAL)

Justice Permod Kohli:

While serving as Regional Provident Fund Commissioner, the applicant was served with a memo of charge dated 03.08.2010 for initiating inquiry under Rule 10 of EPF Staff (CCA) Rules, 1971. He approached the Tribunal in O.A. No.2661/2013 to declare the said memo of charge as *void*

ab initio, as the same was issued without the sanction/ approval from the competent authority. The said O.A. was disposed of vide Judgment dated 23.09.2014 quashing the memo of charge. However, the respondents were granted liberty to take appropriate action in the matter in accordance with law. Consequently, the fresh memo dated 06.05.2015, impugned in the present O.A., has been issued by the respondents. The applicant filed another O.A. challenging this memo in O.A. No.4461/2015 on the ground of non-application of mind. This O.A. was dismissed vide Order dated 13.01.2016. It seems that the applicant still attempted to stall the disciplinary proceedings by filing another O.A. No.828/2016. This O.A. was withdrawn to file a fresh one after removing the defects as reflected in the Order dated 29.02.2016.

2. It is under the above circumstances that the present O.A. has been filed claiming the following relief:

“(a) set aside/quash the memorandum of charge No Vig. XIII (10) 07/Vol. IV/279 dated 06.05.2015 and Enquiry Proceedings arising out of the impugned Charge-Sheet, started on 06.05.2015 and continuing till date belatedly.”

3. We have heard Mr. Mukul Gupta, learned senior counsel for applicant at length. The applicant has been approaching the Tribunal constantly almost on identical pleas. The earlier directions of the Tribunal passed in O.A. No.2661/2013 permitting the respondents to initiate fresh proceedings is sufficient to indicate that question of delay cannot be used by the applicant as an instrument to seek quashing of the charge sheet. We are not impressed by the argument that the charge sheet needs to be quashed on

the ground of delay. In the above circumstances, we do not find any valid reason to interfere in the disciplinary proceedings.

4. It is admitted by Mr. Gupta, learned senior counsel that response to the charge sheet was filed by the applicant on 29.03.2016. His contention is that even after lapse of more than three months, the disciplinary authority has not proceeded with the inquiry and the long pending disciplinary proceedings are hanging like a sword over the applicant for all these years. We feel that there is substance in the submission.

5. In this view of the matter, this petition is disposed of at the admission stage itself with a direction to the respondents to complete the inquiry and consequent action by the disciplinary authority on the inquiry report, within a period of six months from the date of receipt of certified copy of the Order.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

July 29, 2016
/sunil/