

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-3009/2016

New Delhi this the 31st day of January, 2017.

**Hon'ble Mr. Shekhar Agarwal, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)**

Sh. Gajraj Singh,
S/o Sh. Abhey Ram,
Aged about 59 years
PGT (Eco) Govt. Co-Ed
Senior Secondary School,
Pochanpur, New Delhi-110077. Applicant

(through Sh. Ranjit Sharma, Advocate)

Versus

1. The Govt. of NCT, Delhi
through the Principal Secretary,
Department of Education,
Old Secretariat,
Sham Nath Marg, Delhi-54.

2. The Director of Education,
Govt. of NCT, Delhi,
At Old Secretariat,
Sham Nath Marg,
Delhi-54.

3. The Additional Director of
Education, (Vigilance)
Govt. of NCT, Delhi
Distt-South-West-B
Najafgarh, Delhi-43. Respondents

(through Sh. Vijay Pandita, Advocate)

ORDER (ORAL)

Mr. Shekhar Agarwal, Member (A)

This O.A. has been filed seeking the following relief:-

“Quash communication No. DE 54/6/(1-229)DDE/SWB/VIG/2014/905 dt. 2-8-2016 (Annexure A1 supra) and direct the respondents to issue vigilance clearance in favour of the Applicant before his retirement on 30-9-2016 in the interest of justice so that the Applicant receives his retiral dues/benefits.”

2. We have heard both sides and have perused the material placed on record. The only reason given by the respondents for denying vigilance clearance to the applicant was that he was involved in a criminal case FIR No. 193/2005 dated 29.04.2005 at Police Station, Adarsh Nagar, Delhi u/ss 406/420/409/467/468/471/120B IPC.

2.1 Learned counsel for the applicant stated that the investigating agency has not found anything against the applicant and in the supplementary charge sheet filed by that agency, the applicant's name figures in Column-2 under the Caption “Name and Address of accused persons not sent up for trial.” Learned counsel for the applicant also drew our attention to the report of the investigating agency, a typed copy of which has been filed by the respondents themselves along with their affidavit and which is available on pages-59-63 of the paper-book. In the last para of the report at page-63 it has been clearly mentioned that during investigation neither any oral nor any documentary evidence has been found against the applicant.

2.2 Further, the applicant relied on the judgment of Hon'ble High Court in Writ Petition (C) No. 383/2010 dated 25.01.2010 (UOI & Anr. Vs. Prabhu Lal), in paras-13 & 14 of which the following has been held:-

"13. We are satisfied that while exercising power under Rule 69/9 of the CCS Pension Rules, the President has to be satisfied, that the pensioner committed grave misconduct in discharge of his duties. In absence of any such finding, the President cannot hold the pension or withhold gratuity. In the present case also there is no finding against the respondent warranting withholding of any part of pension or gratuity by the President as the respondent was neither facing any departmental proceedings nor the judicial proceedings having anything to do with his official functions. There is nothing on record that any loss has been caused to the Government by any act/omission of the respondent.

14. Thus, we find no infirmity in the aforesaid order which requires this Court to intervene in the matter under Article 226 of the Constitution of India. Accordingly, the writ petition filed by the petitioners is dismissed with costs of Rs. 10,000/- to be paid to the respondent with his dues within one month from today."

Thus, learned counsel for the applicant argued that not only the applicant has been exonerated by the investigating agency but also that the case in which he was implicated has no nexus with his official duties. Hence, the respondents were not justified in withholding his vigilance clearance.

3. Learned counsel for the respondents did not dispute the averment made by the applicant regarding the aforesaid finding of the investigating agency.

4. After hearing both sides, we find merit in the arguments of learned counsel for the applicant. We, accordingly allow this O.A. and direct the respondents to issue vigilance clearance in favour of the applicant within a period of 06 weeks from the date of receipt of a certified copy of this order provided there is nothing else against him. Thereafter, they may process his case for retiral dues and other benefits in accordance with law. No costs.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/