

**Central Administrative Tribunal
 Principal Bench**

**OA No.1775/2014
 MA No.616/2015
 MA No.2542/2016
 With
 OA No.2483/2014
 OA No.1705/2018
 MA No.1895/2018**

New Delhi, this the 16th day of August, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
 Hon'ble Mr. Pradeep Kumar, Member (A)**

I. OA No.1775/2014

Dr. Parthasarathi Banerjee,
 S/o Late Shri Bhabesh Kumar Banerjee,
 Aged about 59 years,
 R/o 16/18, M.S. Building, NPL Colony,
 New Rajinder Nagar,
 New Delhi-1100 60

Presently Director, National Institute of Science Technology
 and Development Studies, Council of Scientific and
 Industrial Research, Pusa Gate, Dr. K.S. Krishnan Marg,
 New Delhi-110012.

...Applicant

(By Advocate : Shri R. Gopal)

Versus

1. The *ex-officio* President,
 Council of Scientific and Industrial Research,
 (His Excellency the Hon'ble Prime Minister of India),
 The Prime Minister's Office, (PMO), South Block,
 Raisina Hill, New Delhi-110011.
2. The *ex-officio* Vice President, Council of Scientific and
 Industrial Research,
 Pusa Gate, Dr. K.S. Krishnan Marg,
 New Delhi-110012.
3. The Central Vigilance Commission,
 Through the Central Vigilance Commissioner,
 Satarkta Bhawan, GPO Complex, Block-A,
 INA, New Delhi-110023.

4. The Director-General,
 Council of Scientific and Industrial Research,
 Pusa Gate, Dr. K.S. Krishnan Marg,
 New Delhi-110012.
5. The Chief Vigilance Officer,
 Council of Scientific and Industrial Research,
 Pusa Gate, Dr. K.S. Krishnan Marg,
 New Delhi-110012.
6. Shri S.C. Sinha,
 Commissioner for Department Inquiries (CDI),
 Central Vigilance Commission,
 Satarkta Bhawan, GPO Complex,
 Block-A, INA,
 New Delhi-110023.

...Respondents.

(By Advocates : Shri Praveen Swaroop and Shri U. Srivastava)

II. OA No.2483/2014

Dr. Parthasarathi Banerjee,
 S/o Late Shri Bhabesh Kumar Banerjee,
 Aged about 59 years,
 R/o 16/18, M.S. Building, NPL Colony,
 New Rajinder Nagar,
 New Delhi-1100 60

Presently Director, National Institute of Science Technology
 and Development Studies, Council of Scientific and
 Industrial Research, Pusa Gate, Dr. K.S. Krishnan Marg,
 New Delhi-110012.

...Applicant

(By Advocate : Shri R. Gopal)

Versus

1. The *ex-officio* President,
 Council of Scientific and Industrial Research,
 (His Excellency the Hon'ble Prime Minister of India),
 The Prime Minister's Office, (PMO), South Block,
 Raisina Hill, New Delhi-110011.
2. The *ex-officio* Vice President, Council of Scientific and
 Industrial Research,
 Anusandhan Bhawan,
 2, Rafi Marg, New Delhi-110001.

3. The Central Vigilance Commission,
 Through the Central Vigilance Commissioner,
 Satarkta Bhawan, GPO Complex, Block-A,
 INA, New Delhi-110023.
4. Shri S.C. Sinha,
 Commissioner for Departmental Inquiries (CDI),
 Central Vigilance Commission,
 Room No.404, Satarkta Bhawan,
 GPO Complex, Block-A, INA,
 New Delhi-110023.

...Respondents.

(By Advocates : Shri Praveen Swaroop and Shri U. Srivastava)

III. OA No.1705/2018

Dr. Parthasarathi Banerjee,
 S/o Late Shri Bhabesh Kumar Banerjee,
 Aged about 62 years,
 Retired as Scientist G, CSIR,
 R/o 34A, Sigma Apartments,
 Sector Beta-1, Greater Noida,
 Gautam Budh Nagar,
 Ghaziabad, U.P.-201308.

...Applicant

(By Advocate : Shri R. Gopal)

Versus

1. Union of India, through,
 The Secretary,
 Ministry of Science and Technology,
 Department of Scientific and Industrial Research,
 Technology Bhawan, New Mehrauli Road,
 New Delhi-110001.
2. The Senior Deputy Secretary,
 Council of Scientific and Industrial Research (“CSIR”),
 Anusandhan Bhawan, 2, Rafi Marg,
 New Delhi-110001.
3. The Director-General,
 Council of Scientific and Industrial Research,
 Anusandhan Bhawan,
 2, Rafi Marg,
 New Delhi-110001.

4. The Controller of Administration,
 National Institute of Science Technology and
 Industrial Development Studies, Pusa Gate,
 Dr. K.S. Krishnan Marg,
 New Delhi-110001.
5. The Chief Vigilance Officer (“CVO”),
 Council of Scientific and Industrial Research,
 Anusandhan Bhawan,
 2, Rafi Marg,
 New Delhi-110001.
6. Shri S.C. Sinha,
 Commissioner for Departmental Inquiries & Inquiring
 Authority (ASI), Room No.404,
 Satarkata Bhawan, INA,
 New Delhi-110023.

...Respondents.

(By Advocates : Shri Praveen Swaroop and Shri U. Srivastava)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicant is functioning as Director in the Council of Scientific and Industrial Research (CSIR). He was issued a charge memorandum dated 30.09.2013, in relation to certain irregularities, that are said to have taken place in the context of appointment as Scientist in the Organisation. He was accused of committing those irregularities. The applicant submitted his explanation to that on 28.10.2013. Thereafter, he approached this Tribunal by filing OA No.1775/2014, challenging the very charge memo.

2. At one stage of the proceedings, the applicant appeared before the inquiry officer and submitted an application with a request to permit him to avail the services of legal practitioner in the proceedings. Vide order dated 03.06.2014, the inquiry officer expressed his inability to accede to his request, in view of the CSIR letter No.1(60)/81-Vig., and clarified that only a servant of CSIR can be nominated as Defence Assistant and not a legal practitioner. Challenging the said communication, the applicant filed OA No.2483/2014.

3. The applicant retired from service on 31.12.2015 on attaining the age of superannuation. He filed the OA No.1705/2018, claiming the reliefs of i) declaration to the effect that he was retired as Scientist-H; 2) revision of his Pay Band and Grade Pay, which he enjoyed as Director, NISTADR; 3) payment of a sum equivalent to the amount of pay attached to the post for a period of six months and 4) other consequential benefits.

4. The applicant contends that very initiation of the disciplinary proceedings vitiated, since the CVC was not apprised of the correct situation and that he has not been

furnished the documents. He pleads that the assistance of a legal practitioner has been denied to him, though he is entitled to it. As regards the OA No.1705/2018, it is stated that the respondents have not extended him the benefit, which he was otherwise entitled to and neither the pension was fixed nor other retirement benefits are extended to him.

5. The respondents filed separate counter affidavits in the OAs. They submit that the disciplinary proceedings were initiated taking into account, the serious lapses on the part of the applicant and having filed voluminous explanation, he has filed the OA, to scuttle the proceedings. It is also stated that he is not entitled to engage a legal practitioner in the disciplinary proceedings. They further submit that his retirement benefits would be decided once the disciplinary proceedings are concluded.

6. We heard the applicant at length and the learned counsel for respondents in detail.

7. The first OA is filed challenging the charge memorandum dated 30.09.2013. Three charges were framed against the applicant and all of them relate to acts of misconduct alleged to have been committed by him, in the

selection of unqualified persons as Scientist. The question as to whether the applicant has any role to play in the matter, will be decided in the disciplinary inquiry. On receiving the charge memorandum, the applicant submitted a voluminous explanation with several objections and contentions. There is no reason to believe that the inquiry officer and the disciplinary authority in that matter would not take them into account.

8. Though it is pleaded that the procedure prescribed for obtaining the clearance from the CVC was not followed, we do not find any support for that contention. It is prerogative of the disciplinary authority to initiate proceedings against an employee, if any act of irregularity is noticed. The advice of the CVC is not a step, determining the rights of the employee and it cannot be said that the rights of the applicant are violated, because of the advice.

9. Another allegation is that certain documents have not been furnished to the applicant. The question of supplying documents arises only when the disciplinary authority takes a decision to order the departmental inquiry. Once that is done, the department is under obligation to

furnish the list of documents as well as the list of witnesses.

Another way of looking at the matter is that the disciplinary authority or the inquiry officer cannot rely upon any documents which are not supplied to the delinquent employee. It goes without saying that if a document is not supplied to a delinquent employee for some reason, it cannot be relied upon by the inquiry officer.

10. The third contention is about the denial of permission to engage a legal practitioner in the disciplinary proceedings. It is well settled that in the departmental proceedings the participation of legal practitioner is not permitted. The letter issued by the CSIR No.1(60)/81-Vig. is very clear on this aspect.

11. For the foregoing reasons, OAs No.1775/2014 and 2483/2014, deserve to be dismissed.

12. OA No.1705/2018 is about extension of the benefits of pay scales or retirement benefits. This would, in turn, depend upon the outcome of the disciplinary proceedings which have been stalled at the instance of the applicant by this Tribunal. Therefore, this OA also deserves to be

dismissed with observation that the nature of retirement benefits to be extended to the applicant would depend upon the outcome of on-going disciplinary proceedings, which are now pending against him. We, however, direct that if the benefits such as gratuity were not extended to the applicant, the same shall be paid forthwith.

13. Since the proceedings were stalled for the past four years, the same shall be resumed forthwith and concluded within a period of one year. We also make it clear that neither the inquiry officer nor the disciplinary authority shall be under any obligation to respond to any of the representations which the applicant may file in respect of disciplinary proceedings. However, it shall be open to the applicant to raise all the grounds, in an appeal, or OA, if he suffers any order adverse to him.

14. There shall be no order to costs.

15. MA No.616/2015, MA No.2542/2016 and MA No.1895/2018, also stand disposed of.

(Pradeep Kumar) (Justice L. Narasimha Reddy)
Member (A) Chairman
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