

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE**

ORIGINAL APPLICATION No. 170/00502/2017

TODAY, THIS THE 23rd DAY OF AUGUST, 2018

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE SHRI DINESH SHARMA, ADMINISTRATIVE MEMBER**

M.S.Ravishankar, IAS (Retd)
S/o late M.Siddamalliah
Aged about 62 years,
Retd. Secretary to Government,
Minority Welfare Department,
Vikasa Soudha,
Bangalore – 560 001.

R/at:
No.584, 3rd Block, RMV 2nd Stage,
Bangalore – 560 094.

...Applicant.

(By Advocate M/s. K.R. Bhavani Shankar & Co.)

Vs.

1. State of Karnataka by its

Chief Secretary to Government,
Department of Personnel & Administrative Reforms,
Vidhana Soudha,
Bangalore – 560 001.

2. Union of India by its Secretary

to Government,
Ministry of Personnel & Public Grievances & Pensions,
Department of Personnel & Training,
North Block, New Delhi-110 001.

3. The Principal Accountant General,

(A & E), Karnataka,

Bangalore-560 001.

...Respondents

(By Advocates Shri V.N.Holla, Sr. Panel Counsel, for Respondents 2 & 3 and
Shri T.S. Mahantesh, Counsel for respondent No.1)

ORDER

Hon'ble Shri Dinesh Sharma, Administrative Member

The facts of the case, in brief, are as follows:

2. The applicant, while working as Managing Director of My Sugar Company Limited (an Organisation under respondent Government of Karnataka) from 16.07.2001 to 19.09.2002, allegedly caused a loss of Rs. 62,42,000/- to the Company in a deal for supplying sugar to the Food Corporation of Nepal. The applicant alleges that a preliminary enquiry on this matter was conducted by Shri K.M. Shivakumar, IAS, and the applicant was exonerated of any guilt in that enquiry. However, during 2008, a departmental enquiry was initiated against which he preferred O.A. No. 363/2009 before this Tribunal. This Tribunal disposed off the O.A by order dated 11.02.2013, in which the respondent State Government was directed to make all documents available to him, to appoint a new enquiry officer and to conclude the enquiry with some conditions and within a stipulated time. The applicant alleges that despite his repeated request for closing this matter, the Government has not done anything. After his retirement on 31.03.2015, citing the pendency of this disciplinary matter against him, he has not been given DCRG and commuted value of pension. He has sought this Tribunal's orders for grant of

DCRG and commuted value of pension. During the pendency of this application, the applicant requested for impleading Union of India represented by the Secretary, Ministry of Personnel, Public Grievances & Pension, Department of Personnel & Training, New Delhi and Principal Accountant General, Karnataka as additional respondents. The request was allowed. The additional respondents, however, denied any role in this matter and questioned the need for impleading them.

3. The respondent No.1, State of Karnataka, have filed reply denying the allegations of the applicant. They have alleged that following the decision of this Tribunal In O.A. No. 363/2009, they had requested the applicant, by letters dated 22.1.2014 and 4.3.2014, to visit the concerned office and to peruse all relevant records and get the copies sought by him. However, the applicant did not do so and only requested for dropping of the matter. They have again, by a letter dated 16.8.2014, asked the applicant to respond to the points raised in the earlier show cause notice, but the applicant has not responded to it. They have also stated that the DCRG and commuted value of pension will be released upon completion of Departmental Proceedings which is under the examination of the State Government.

4. The applicant, in his rejoinder, has reiterated his case. He is denying that any further letter as stated in the reply (letter dated 16.08.2014) was issued to him requesting to furnish the reply to show cause notice. Besides quoting the decision in O.A. No. 363/2009, he has also cited the judgements of the Apex Court in P.V. Mahadevan vs. MD, T.N. Housing Board, (2005) 6 SCC 636, and

State of Madhya Pradesh vs. Bani Singh and Another, 1990 (Supp) SCC 738, in support of his case that inordinate delay in enquiry proceedings makes them liable to be quashed.

5. After reading the pleadings and hearing both the sides, it is clear that the applicant's DCRG and commuted value of pension have not been released due to the alleged misdemeanour on his part in the year 2001. The respondent has nowhere clearly denied the applicant's averment that he was exonerated, as early as in 2003, in the preliminary enquiry conducted in this matter. It is also clear from the records that since the decision of this Tribunal in O.A. No. 363/2009, pronounced on 13.02.2013, there has been no action by the Government of Karnataka except writing him two letters in 2014 for visiting the office and perusing the records. The order of this Tribunal had fixed very clear time lines for providing documents (2 weeks), for conducting the enquiry (within one month from the date of supply of documents to the applicant, if the Government wanted to conduct such enquiry) and for concluding it within next three months. The applicant's failing to visit their office and provide list of documents which he had sought, cannot be taken by the respondents as an excuse for indefinitely prolonging the conduct of enquiry. They could have very reasonably presumed that he had nothing further to say and started and finished the proceedings, as directed by this Tribunal. The reply of the Government filed, before this Tribunal on 19.06.2018, still says that "the matter is under the examination of the State Government". Such endless examination, in a matter which occurred almost 17 years back, and for which this Tribunal

had given specific time lines for disposal, certainly shows that the Government is not serious about pursuing this matter. If it still pursues it, it will seriously prejudice the applicant who will not be in a position to defend himself properly at this length of time. We are, therefore, convinced that by failing to take action in a time-bound manner, despite clear directions from this Tribunal, the Government has forfeited any right which they might have had to take further disciplinary action against the applicant in this matter.

6. The O.A., therefore, succeeds. The entire DCRG, commuted value of pension and all other pensionary benefits should be released to the applicant within one month from the date of receipt of a copy of this order. No order as to costs.

(Dinesh Sharma)
Administrative Member

(Dr. K.B. Suresh)
Judicial Member

Cvr.

Annexures referred to by the applicant in O.A :

1. Annexure A1 CAT order dated 11.2.2013 passed in OA No.363/2009
2. Annexure A2 Letter dated 22.1.2014 issued by the respondent No.1
3. Annexure A3 Letter dated 4.3.2014 issued by the respondent No.1
4. Annexure A4 Representation dated 20.3.2014 of the applicant
5. Annexure A5 Representation dated 2.6.2015 of the applicant
6. Annexure A6 Letter dated 11.1.2016 issued by the respondent No.1
addressed to the Principal Accountant General (A&E),

Bengaluru.

7. Annexure A7 Letter dated 11/17.2.2016 of the O/o. the Accountant General (A&E), Bangalore, addressed to the Chief Secretary to Govt. of Karnataka. Bangalore.
8. Annexure A8 Representation dated 2.3.2017 & postal Acknowledgment by the applicant.
9. Annexure A9 Representation dated 18.5.2017 & Postal Acknowledgment by the applicant.
