

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.203/00087/2017

Jabalpur, this Wednesday, the 25th day of July, 2018

**HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Bhaskar Guha, S/o Late A.B.Guha, aged about 40 years,
Working as CLA/SECR/NGP, R/o Near Bony Agency,
Devarikhurd, Bilaspur (CG)-495004 -Applicant
(By Advocate –**Shri A.V.Sridhar**)

V e r s u s

1. Union of India, through the Secretary, Railway Board, Rail Bhawan, Raisina Road, Rafi Marg, New Delhi-110001
2. General Manager, South East Central Railway, New GM Building, Bilaspur, Chhattisgarh-495004
3. Senior Deputy General Manager and Chief Vigilance Officer, Old GM Building, South East Central Railway, Bilaspur (CG)-495004

(By Advocate –Shri Vivek Verma)

(Date of reserving the order:- 20.07.2018)

ORDER

By Navin Tandon, AM:-

The applicant is aggrieved by the fact that investigation of complaint against him by the Vigilance Department is taking unusually long time. Hence, this Original Application has been filed.

2. The applicant is working as Chief Law Assistant with the respondent department-Railways. He submits that he applied for the post of Investigating Inspectors (Vigilance) Traffic in Railway Board, which was notified on 09.05.2013. He was not selected and on making application under RTI Act with regard to the tabulation of marks, it came to the knowledge of the applicant that certain complaints have been made against him which is under investigation before the Vigilance Authorities. The relevant sheet of tabulation is filed as Annexure A-1.

2.1 The applicant further submits that he applied for study leave. However, the Vigilance Department on 18.08.2015 (Annexure A-2) informed that a compliant against the applicant is under investigation.

2.2 In another instance, he submits that the respondents initiated the process for recruitment of Group B post of Protocol Officer on 18.11.2015, for which the applicant applied. The entire selection process is governed by the outcome of Original Application No. 770/2016. In this case also, the applicant was not selected. The selection proceedings obtained through RTI (Annexure A-3) mention that a Vigilance complaint is under investigation.

2.3 The applicant has submitted representation to respondent No.3 on 19.12.2016 (Annexure A-4), but has not heard anything in the matter.

2.4 The applicant has cited instructions dated 23.05.2000 (Annexure A-5) from Central Vigilance Commission to CVOs of all Ministries to complete the investigation within timeline stated therein. Railway Board Vigilance Directorate has also instructed vide RBV No. 01/2014 dated 09.01.2014 (Annexure A-6) regarding adherence to time limit while furnishing report on CVC referred and PIDPI complaint.

2.5 The applicant has doubts whether any preliminary enquiry has been conducted.

3. The following relief has been sought for by the applicant in this Original Application:-

“8. Relief Sought :

(8.1) That the Hon'ble Tribunal may kindly be pleased to call the entire records pertaining to the case of the applicant.

(8.2) That , the Hon'ble Tribunal may kindly be pleased to direct the respondent No.3 to strictly follow the time limit prescribed by the Respondent No.1 by various circulars with regard to investigation of complaints by vigilance department.

(8.3) That, the Hon'ble Tribunal may kindly be pleased to direct the respondents to pass fresh transfer orders transferring the applicant from Nagpur Division to Bilaspur.

(8.4) That, the Hon'ble Tribunal may kindly be pleased to hold that the pendency of vigilance complaint for fairly long time does not disentitle the employee from vigilance clearance.

(8.5) Cost of the Original Application be awarded.

(8.6) Any other relief which the learned Tribunal deems fit and proper may be awarded.”

3.1 During argument stage, learned counsel for the applicant submitted that relief in Para 8.3 is not being pressed.

4. The respondents have filed their reply on 02.11.2017. They have submitted therein that one complaint against the applicant was received by Vigilance Branch of SECR on 17.03.2015 from Railway Board vide letter No. 2015/V4/SECR/GNL/5 dated 17.03.2015. The subject matter of complaint involved cooperation from outside agencies like the Superintendent of Police (Railway)/Jabalpur, the Superintendent of Police, Bilaspur and the Registrar, Hon'ble District & Session Court, Katni (MP) and therefore, the investigation is taking time.

4.1 The respondent have submitted that Vigilance Organization only provides Vigilance status of the official in favour of whom vigilance clearance has been asked for. It is the competent authority to take decision after going through the Vigilance Status furnished by the Vigilance Organization. In this regard Railway Board vide office order No. 31/1999 dated 20.08.1999 (Annexure

R-1) has issued guidelines for vigilance clearance and management decision for guidance of competent authority.

4.2 The respondents have also informed that study leave in favour of the applicant for the period 01.08.2015 to 31.07.2016 was granted vide office order no. NG/678/2015 dated 09.12.2015.

4.3 The respondents have averred that vigilance investigation is very confidential in nature. Applicant has not furnished any source from where he came to know regarding non-conducting of preliminary enquiry. It is fact that investigation against compliant is under process and only factual status intimated to Personnel Branch of SECR. The personnel Branch had also not with held any career benefit of the applicant.

4.4 Respondents submit that the letter (Annexure A-5) is for general guidance of CVC in connection with complaint related enquiry. As regards RBV No. 17/2010 and RBV No. 01/2014 (Annexure A-6), these are for CVC or PIDPI complaint. The investigation under question is neither of these.

5. Heard the learned counsel of both the parties and pleadings available on record.

6. During the argument stage, it was brought to our notice that the investigation of the complaint has been completed by the

Vigilance Branch of South East Central Railway (SECR) and forwarded to Railway Board.

7. Perusal of Annexure A-1 and A-3 does not indicate that non-selection of the applicant was only because of a complaint under investigation. Infact, marks obtained by the applicant, as shown in Annexure A-1, clearly shows that he has obtained 62 marks whereas there are atleast 3 candidates who have secured marks higher than him.

8. Learned counsel for the respondents submits that since the main relief was for giving direction to respondent No.3, the present O.A. has become infructuous at this stage as the complaint investigation has already been completed.

9. It is seen that the applicant has not been able to demonstrate that his career prospects have been affected due to this pending investigation of a complaint. However, it is clear that Vigilance Department of SECR has taken about 3 years in completing the investigation. This appears to be a very unreasonably long period, even though the respondents have explained their problems in coordinating with outside agencies like Police, Courts etc.

10. At this stage, responding to the prayer in Para 8.6, we direct respondent No.1 to ensure that the complaint investigation is brought to its logical conclusion as expeditiously as possible.

11. The Original Application is accordingly disposed off. No costs.

(Ramesh Singh Thakur)
Judicial Member
rn

(Navin Tandon)
Administrative Member