

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIAL BENCH**

MA 1638/2018
OA 4555/2017

Reserved on 09.01.2019
Pronounced on 25.02.2019

**Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr.S.N.Terdal, Member (J)**

Braham Singh, 60 years
S/o Sh. Shyam Lal,
Retired from the post of Grade-IV/LDC
From GNCT of Delhi
R/o H. No. 199, Vill & PO Mandi,
New Delhi-47.

... Applicant

(By Advocate: Mr. Yogesh Sharma)

VERSUS

1. Union of India, through its Secretary,
Ministry of Home Affairs, Govt. of India,
New Delhi.
2. Govt. of NCT of Delhi through
The Chief Secretary, Delhi Secretariat,
Near ITO, New Delhi.
3. The Secretary-cum-Commissioner,
Food Supplies & Consumer Affairs,
Govt. of NCT of Delhi, K. Block,
Vikas Bhawan, I.P. Estate,
New Delhi. ... Respondents

(By Advocate: Mr. Pratap Shankar with Ms.Rishu Agarwal for
R-2 & 3)

O R D E R

(Hon'ble Mr. S.N.Terdal, Member (J):

We have heard Mr. Yogesh Sharma, counsel for applicant and Mr. Pratap Shankar, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

“(i) That the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the impugned charge sheet dated 23.10.2017 (Ann.A/1) and order dated 12.12.2017 (Ann.A/2) declaring to the effect that the same are totally illegal, unjust and against the rules and law of the land and consequently pass an order directing the respondents to release all the retirement benefits of the applicant i.e. main pension, gratuity, etc. immediately with interest from due date i.e. from the date of retirement till the date of payment.

(ii) Any other relief which the Hon’ble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation.”

3. The relevant facts of the case are that a sting operation was conducted wherein the applicant alongwith several other employees was shown as accepting money on 8.03.2005 in lieu of official favour of his position in the Trade & Taxes department of respondents, which was published in the News Channel. Subsequently an FIR No. 12/2005 dated 9.3.2005 was registered under section 7, 12 & 13 of Prevention of Corruption Act, 1988 read with Section 120 B of IPC with the Police Station Anti Corruption Branch, Delhi against the applicant. He was arrested and, therefore he was placed under suspension w.e.f. 10.08.2006 vide order dated 8.09.2006.

4. Alongwith the other employees the applicant was dismissed from service vide order dated 11.09.2006. Against the said dismissal order the applicant and others filed several OAs alongwith OA No. 2553/2006. The Full Bench of this Tribunal, vide order dated 31.08.2009 passed in those OAs, set aside the dismissal orders but allowed the holding of the departmental enquiry. Though the respondents filed Writ Petition against the said order dated 31.08.2009 of this Tribunal but the same was dismissed vide order dated 06.08.2010. The respondents have preferred SLP before the Hon’ble Supreme Court against the order of the High Court

dated 6.08.2010 and it is still pending. In the meanwhile, the applicant filed Contempt Petition. In view of the Contempt Petition, in compliance with the order passed by this Tribunal on 31.08.2009 the applicant was reinstated and suspension of the applicant was revoked without prejudice to the outcome of the criminal proceedings pending against the applicant. In the Criminal case, the learned court of Shri Narottam Kaushal, Special Judge (PC Act)-05 (ACB) (CENTRAL), Tis Hazari Courts, Delhi vide judgment dated 11.03.2015 acquitted the applicant alongwith several others on the ground of insufficient evidence. The relevant portion of the judgment is extracted below:

“ 6.1. For the reasons detailed in paras 4 &5 above, I am of the opinion that prosecution has failed to even remotely raise suspicion sufficient to put accused persons to trial. This evidence cannot in any manner be sufficient for conviction. I, therefore, discharge all the accused persons for the offences u/sec. 7 & 13 (i)(d) of the PC Act punishable u/sec.13(2) of the PC r/w/sec.-120 IPC.”

5. The respondents have filed appeal against the said acquittal before the Hon’ble High Court of Delhi which is still pending. The respondents have issued the impugned charge sheet dated 23.10.2017 and order dated 12.12.2017 with respect to initiation of the said departmental enquiry. The said charge sheet dated 23.10.2017 and said order dated 12.12.2017 have been challenged in this OA. The counsel for the applicant vehemently contended that as he has been acquitted by the Criminal Court, as such the issuance of charge sheet is bad in law.

6. The counsel for the respondents equally vehemently contended that the judgment in the criminal case should not be treated as a bar to holding of the departmental enquiry particularly in view of the liberty

given by this Tribunal in the order dated 31.08.2009, the operative portion of which is extracted below:

“31. All these Applications are accordingly allowed. Impugned orders passed by the concerned authorities, be it the disciplinary or the appellate authorities, are set aside and quashed. The respondents would be, however, at liberty to proceed against the applicant departmentally.....”

7. In view of the order extracted above and submissions made by the learned counsel for the respondents, we are of the view that there is no ground for setting aside the impugned order initiating the departmental enquiry.

8. Accordingly, OA is dismissed. No order as to costs.

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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