

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

O.A. No.186/2019

Thursday, this the 31st day of January 2019

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

Dr. Parthasarathi Banerjee
Aged about 63 years, Group A
s/o late Shri Bhabesh Kumar Banerjee
r/o 3A4, Sigma Apartment, Sector Beta-1
Greater Noida (UP)

..Applicant

(Mr. Manoj V. George, Advocate)

Versus

1. Council for Scientific & Industrial Research
Through Director
Anusandhan Bhawan, 2, Rafi Marg
New Delhi – 1
2. Department of Personnel & Training
Through Secretary
North Block, New Delhi – 1

..Respondents

(Mr. Praveen Swarup, Advocate for respondent No.1 –
Ms. Vertika Sharma, Advocate for respondent No.2)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant retired as Director of National Institute of Science, Technology & Development Studies (NISTADS) one of the Units of Council of Scientific & Industrial Research (CSIR) on 31.12.2015. A charge sheet was issued to him on 09.12.2018 alleging that he misinterpreted the relevant rules and inducted several persons into service under the 'Quick Hire Scheme' and

that the funds of the Council, to the tune of Rs.1.50 crores were wasted. This O.A. is filed challenging the said charge memo.

2. The principal contention urged by the applicant is that the charge memo was issued in contravention of Rule 9 (2) (b) of CCS (Pension) Rules, 1972. It is stated that the said provision prohibits initiation of disciplinary proceedings against a retired employee if an inquiry is in relation to the events, which have taken place more than four years before issuance of the charge memo. The applicant contends that the appointments were referable to the year 2011 and hence the charge memo issued in the year 2018 is completely barred, under law.

3. We heard Mr. Manoj V George, learned counsel for applicant, Mr. Praveen Swarup, learned counsel for respondent No.1 and Ms. Vertika Sharma, learned counsel for respondent No.2 in detail.

4. The challenge in this O.A. is to a charge sheet dated 09.02.2018. It is relevant to mention here that the applicant was facing disciplinary proceedings even by the time he retired from service. O.A. Nos. 1775/2014, 2483/2014 & 1705/2018 were dismissed as recently as on 16.08.2018. He approached the Hon'ble Delhi High Court by filing W.P. (C) Nos.12036/2018 & 12062/2018 challenging the order in the said O.As. and the writ petitions were dismissed on 12.11.2018 by imposing a cost of Rs.10,000/- on each. The reason for us to refer to the fact is that

the charge memo, which is assailed in the present O.A., was very much there, when the said O.As. were disposed of. Propriety demanded that the applicant brought the charge memo dated 09.02.2018 also, into challenge, so that the inquiry against him, which was substantially delayed, does not get further hampered. It appears that the challenge to the impugned charge memo was kept at reserve.

5. It is no doubt true that Rule 9 (2) (b) of CCS (Pension) Rules prohibits initiation of disciplinary proceedings against a retired employee in respect of an event that has taken place more than four years before the issuance of charge memo. However, to invoke this provision, the facts should not be in dispute. If the record can disclose that the inquiry is in respect of an event, which took place outside the limit of four years from the date of charge memo, the provision can be invoked. The inquiry is not with reference to an event that took place on a particular day. It is into series of transactions. Verification of such matter can be possible only before the inquiry officer. It is not as if mere participation in the inquiry would deprive the applicant to avail the benefit if the facts support him.

6. We, therefore, dispose of this O.A. by permitting the applicant to raise all the pleas, including the one, referable to Rule 9 (2) (b) of CCS (Pension) Rules, 1972, before the inquiry officer, and by directing the inquiry officer to deal with the question of limitation, i.e., whether the charge is in relation to an event,

which took place more than four years, before the date of the charge sheet, as a separate issue.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

January 31, 2019
/sunil/