

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/01460/2018

DATED THIS THE 02ND DAY OF APRIL, 2019

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C.V. SANKAR, MEMBER (A)

R. Parthiban,
S/o P. Rajagopal,
Aged about 56 years,
Working as Programme Officer,
Indian Council for Cultural Relations,
No. 7/2, First Floor, 2nd Main,
Palace Cross Road, Bangalore – 560 020
(By Advocate Shri B. Venkatesh Kumar)

..... Applicant

Vs.

1. The Director General,
Indian Council for Cultural Relations,
Azad Bhavan,
I.P. Estate, New Delhi – 110 002

2. The Deputy Director General (AH),
Indian Council for Cultural Relations,
Azad Bhavan,
I.P. Estate, New Delhi – 110 002

3. The Regional Director,
Indian Council for Cultural Relations,
No. 7/2, First Floor, 2nd Main,
Palace Cross Road, Bangalore – 560 020

4. Union of India represented by
Secretary to Government,
Ministry of External Affairs,
South Block, New Delhi – 110 011

....Respondents

(By Shri M.V. Rao, Senior Central Government Panel Counsel)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. This is a curious case that an officer has been found as not really guilty by the Inquiry Officer but the Disciplinary Authority wanted to disagree from the findings then mysteriously the file vanished. The applicant says that he does not know where the file is. Probably he is correct. Therefore, on the fond belief that applicant also will be having the file with him as he is a reasonably senior officer who will naturally keep the file with him as especially when he is agitating this matter but curiously Shri B.S. Venkatesh Kumar, learned counsel for the applicant, submits on instructions from his party that he also does not have a piece of paper but he says that he had produced Annexure-A6 which contain chargesheet also and his reply and wants us to rely on that. As both of the Judges have experience in this matter before also, we decline to accept the contention of the applicant. We feel very strongly that applicant must have been instrumental in the disappearance of the file. The applicant now claims that this is a sweeping allegation. We will now explain how sweeping it is.

2. Normally when an infraction happens and the files go missing, usually the point of guilt can only point to the person who will benefit by that. Applicant has been in such a position as it cannot be denied. True, it can be said that the applicant may not be guilty after all and some others may have filched the file. Therefore, we will now examine whether the Disciplinary Authority has filched the file. There is no serious personal allegation made against the particular Disciplinary Authority who initiated or who conducted the matter, therefore, the personal element as far as the Disciplinary Authority is concerned is significantly absent. These files are kept at a much lower level than the Disciplinary Authority. If the Disciplinary Authority had filched such a file and taken home or secreted elsewhere, it will be all over the office and known to everyone in no time because consanguinity exists between colleagues of similar nature. So, it cannot be that the Disciplinary Authority had filched the file. It can only be that applicant or his assistants in the infraction would have filched the file. This is buttressed by the fact that applicant does not have a piece of paper to support his case other than Annexure-A6 which he has duly produced. At this point of time we had the benefit of hearing the applicant in person. He also would say that he does not have a single piece of paper other than Annexure-A6 which he has produced.

3. **We do not believe it.**

4. The learned counsel for the applicant would say that without the respondents filing reply either admitting or objecting the allegation made by

the applicant no decision can be taken. It is not correct. This is a first instance Court and eligible to take evidence and also demeanour of the witnesses before it. After having 40 years of experience at it, we watched the demeanour of Shri Parthiban also. We hold that certainly the file would not have disappeared without his juncture. The applicant cannot be held to be eligible for holding any sensitive post again in the governance of India. Further processes also may be devised against him as deemed fit by the concerned authorities. Before leaving the subject aside, we direct the Respondent No. 1 to hold an inquiry or an investigation in the matter as to the disappearance of the file and take appropriate action in both departmental and in the Criminal Court against the concerned person. In case of any doubt, they may refer to the CBI in this matter. But this OA will not lie under law and the sacred principles of justice. Anybody who tries to sully the temple of justice must be adequately dealt with. Therefore, we dismiss the OA with a cost of Rs.1,00,000/- to be paid by the applicant to the respondents within two weeks' time failing which the respondents can realize from him through whatever coercive methods they choose to.

5. The OA is dismissed with the cost of Rs. 1,00,000/-.

(C.V. SANKAR)

(DR.K.B.SURESH)

MEMBER (A)

MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/01460/2018

Annexure-A1: Copy of the order of promotion dated 25.05.2010

Annexure-A2: Copy of the seniority list of Programme Officer dated 25.10.2012

Annexure-A3: Copy of the order of applicant posting to Bhubaneswar

Annexure-A4: Copy of the order posting applicant to Trivandrum

Annexure-A5: Copy of the order posting applicant to Hyderabad

Annexure-A6: Copy of the representation dated 17.06.2013 to charge memo

Annexure-A7: Copy of the promotion order dated 26.02.2015

Annexure-A8: Copy of the promotion order dated 17.05.2016

Annexure-A9: Copy of the representation dated 17.11.2016

Annexure-A10: Copy of the representation dated 09.05.2017

Annexure-A11: Copy of the promotion order dated 21.08.2018

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