

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

ORIGINAL APPLICATION NO. 180/00179 of 2019

Wednesday, this the 17th day of July, 2019

CORAM

Hon'ble Mr. E.K.Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member

Smt.Sumathi Ravichandran, aged 57 years
W/o.R.Ravichandran, Postmaster General
Central Region, Kochi, Residing at PMG's Quarters
Kadavanthra P.O, Kochi – 682 020

... Applicant

(By Advocate Mr.Shafik M.Abdulkadir)

Versus

1. Union of India, represented by the Secretary
Ministry of Communications
Department of Posts, Dak Bhawan
Sansad Marg
New Delhi – 110 001

2. The Asst. Director General (Vig.I)
Ministry of Communications &IT
Department of Posts, Dak Bhawan
Sansad Marg, New Delhi -110 001

..... Respondents

(By Advocate Mr.N.Anilkumar,SCGSC)

The above application having been finally heard on 4.7.2019, the Tribunal on 17.7.2019 delivered the following:

ORDER

*Per: **Mr.E.K.Bharat Bhushan, Administrative Member***

The Original Application 180/00179/2019 is filed by Smt.Sumathi Ravichandran, Postmaster General, Central Region, Kochi aggrieved by the Memorandum No. 11-12/CBI/2010-Vig dated 15.3.2017 issued by the 2nd respondent proposing to initiate a Rule 14 Inquiry against her for violation of Rule 3(1)(i), 3(1)(iii) and 3(1) (ii) of the CCS (Conduct) Rules, 1964 after a long delay of 8 years of the alleged incident. A copy of the Memorandum of Charges is at Annexure A-1.

2. The reliefs sought in the Original Application are as follows.

“ (i) To call for the records relating to Annexure A-1 to A-13 and to quash A-1 being illegal and arbitrary.

(ii) To pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.

(iii) To award costs of this proceedings. ”

3. Applicant is presently working as Postmaster General, Central Region, Kochi. She has been posted as such as per order No.1-3/2015-SPG dated 15.9.2015. She was served with Charge Memorandum at Annexure A-1 dated 15.3.2017 while working at Kochi and she submitted a reply to the said Memorandum on 27.3.2017, a copy of which is at Annexure A-2. In the

said reply, applicant pointed out that the Articles of Charge relates to an incident of several years ago, namely, a raid and search conducted by the C.B.I at the residence of the applicant on 24/25.4.2009 while she was working as Regional Passport Officer, Chennai on deputation under the Ministry of External Affairs. The applicant submits that on the basis of the incident of raid and search, 3 FIRs were registered against the applicant and others by the CBI/ACB Chennai, resulting in filing of three Criminal Cases against the applicant and others in three different CBI Courts at Chennai in the three 3 RCs. The three RCs are summarized below:

RC No.	Date of filing of FIR	Name of Accused	Charges against the Accused
RC/20/A/2009	24.04.2009 at 10.00 am	A-1:Sumathi Ravichandran A-2:Ms.Fathima Muzaffer, M/s.Ahmed World Travels, Chennai	u/s 120-B IPC r/w Sec 8, 13(2) and 13(1)(d) of PC Act
RC/21/A/2009	25.04.2009 at 15.00 hrs	A-1: Sumathi Ravichandran A-2: R.Ravichandran (Husband) A-3: Raju A-4: L.Sreenivasan A-5:Arul Selvan A-6:Shampath Kumar	u/s 120-B IPC r/w Sec 8,9,10, 13(2) and 13(1)(d) of PC Act
RC/67/A/2009	23.12.2009 At 17.15 hrs	A-1:Sumathi Ravichandran A-2: Dr.R.Ravichandran	u/s 109 IPC u/s 13(2) r/w 13(1)(e) of PC Act, 1988

4. The third RC, namely, RC/67/A/2009 alleging acquisition of

disproportionate assets by the applicant was finally closed by the CBI with the leave of the Court on 7.10.2010. A copy of the order of Principal Special Judge for CBI Cases, Chennai is at Annexure A-3. Also the first mentioned RC, namely, RC/20/A/2009 ended in honourable acquittal of the applicant after examination of the case on merit by the Court of IX Additional Special Judge for CBI Cases, Chennai as per judgment dated 3.3.2017 in CC No.37/2011, a copy of which is available at Annexure A-4. The Principal Special Judge in this case also made use of the opportunity to criticize the falsity of charges framed against the accused as trumped up and strongly deprecated the procedures followed by the Investigating Officers and the prosecution going so far as to comment:

“All these infirmities lead to the inference that the conclusion becomes inescapable that the investigation is tainted and it would therefore be unsafe to rely upon such tainted investigation, as one would not know where the Police Officer would have stooped to fabricate evidence and create false evidence. ”

5. Regarding the remaining RC, i.e, RC 21/A/2009, the applicant mentioned in Annexure A-2 reply that the trial of the case in CC 29/2011 was at the fag end and therefore, proceeding with the same charges in the departmental proceedings at that juncture will seriously prejudice the applicant while conducting her defence in the criminal trial. At this point, the applicant was served with an order dated 29.3.2017 transferring her to

Kolkata as PMG (Mail & BD), West Bengal Circle. Viewing this as a punishment transfer, applicant approached this Tribunal by filing O.A 278/2017 and this Tribunal was pleased to order an interim stay on the operation of transfer order till the final disposal of the O.A. At that point, apprehending that departmental proceedings initiated against the applicant would handicap conduct of her defence in the Court case, applicant filed O.A 298/2017 before this Tribunal challenging Annexure A-1 Charge Memorandum which had been issued in haste on acquittal of the applicant as per Annexure A-4 judgment. This Tribunal after hearing the Original Application along with O.A 278/2017, passed a common order disposing of both the OAs together on 21.7.2017, a copy of which is available at Annexure A-5, in which this Tribunal was pleased to quash the transfer order and also issued a direction that “ the departmental proceedings as evidenced in the Charge Memo at Annexure A-1 will remain suspended till the proceedings before the designated CBI Judge are concluded in RC 21 A/2009. ”

6. In the meanwhile, the respondents have issued yet another Rule 14 Charge Memorandum based on the same incident of raid and search dated 30.8.2017. Applicant challenged the 2nd departmental proceedings issued as per charge memo dated 30.8.2017 by filing O.A 1063/2017 before this Tribunal and this Tribunal was pleased to order an interim stay on

18.12.2017 on the 2nd Rule 14 inquiry proceedings until further orders. O.A 1063/2017 is now ready for final hearing.

7. Finally, the remaining Criminal Case, namely, CC 29/2011 in RC 21/A/2009 instituted on the very same set of facts and with the very same witnesses and documents in the departmental proceedings came to be disposed of by the Principal Special Judge for CBI Cases, VIII Additional City Civil Court, Chennai as per judgment dated 26.12.2018 (Annexure A-6) concluding that:

“ In the result, in this case the accused A-1 to A-6 are found not guilty of the offences punishable under Sections 120B of IPC r/w Sections 8,9,10 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and therefore, the accused A-1 to A-6 are acquitted from those charges under Sec. 248(1) Cr.P.C.”

The order also includes references to a certain CBI Officer, namely, Shri.Murugan, a Superintendent of Police, who is alleged to have acted with bias and malafide intention towards the applicant.

8. When the stay was ordered by this Tribunal as per Annexure A-5 common order, this Tribunal had relied on the decision of the Hon'ble Supreme Court in ***Capt.M.Paul Anthony v. Bharat Gold Mines Ltd. and Anr.*** reported in (1999) 3 SCC 376 as well as ***G.M Tank v. State of Gujarat***

and Anr reported in (2006) SCC (L&S) 1121 while deciding that the departmental proceedings should wait until the final decision in the proceedings before the Criminal Court. This Tribunal also pertinently quoted *G.M Tank*'s judgment which held that “when the facts and evidences in the departmental and criminal proceedings are identical and witnesses the same, a contrary recording of the finding of departmental proceedings would be unfair and oppressive. “

9. While forwarding copy of Annexure A-6 judgment to respondent no.1, the applicant utilised the opportunity to submit a detailed representation with a prayer to cancel the impugned Annexure A-1 Charge Memorandum dated 15.3.2017 and the 2nd Charge Memorandum dated 30.8.2017. A copy of the detailed representation dated 15.1.2019 is at Annexure A-7. It was maintained in the said representation that in view of the acquittal of the applicant of all charges in the criminal trials, the Charge Memoranda may be treated as cancelled. The applicant also quoted therein Rule 82 of Postal Manual Volume III which mandates that “it is not permissible to hold departmental inquiry in respect of a charge based on the same facts or allegations which have already been examined by a Court of competent jurisdiction and the Court has given a finding that they are not true. ”. This was followed by another representation, a copy of which is available at Annexure A-8. CBI/ACB Chennai went on with its

determination to persecute the applicant as is evidenced by a copy of the order of CBI/ACB Chennai dated 13.4.2017 obtained under RTI Act (Annexure A-9), which directs the Deputy Director General (Vigilance) Department of Posts, New Delhi to initiate Regular Departmental Action (RDA for short) for Major Penalty against the applicant in RC 67/A/2009 in the disproportionate assets case. Further a similar letter dated 22.11.2010 directing RDA for Major Penalty Proceedings against the applicant in furtherance of RC/21/A/2009 was also sent by CBI/ACB, Chennai (Annexure A-10).

10. It is maintained that it was on account of Annexure A-10 that Annexure A-1 Charge Memorandum dated 15.3.2017 came to be issued to the applicant without even conducting a preliminary departmental inquiry. The applicant maintains that during her posting as Regional Passport Officer, Chennai, she has done commendable work and brought several improvements in the functioning of the Passport Office, Chennai. However, she had occasion to get on the wrong side of the Superintendent of Police, CBI, who was functioning in the very same building above the Passport Office, Chennai. The raid and search operations conducted under Shri.Murugan's auspices were a direct result of this ill will. The applicant had also an occasion to make a complaint to the Director CBI, New Delhi voicing her grievances against the S.P.

11. As grounds, the applicant maintains that the Charge Sheet is entirely on the basis of a raid conducted by the CBI when she was working on deputation in an office under the Ministry of External Affairs. This has nothing to do with her work and conduct in her parent Department, viz; the Department of Posts. It is pertinent to observe that the Ministry of External Affairs has not conducted any fact-finding inquiry or preliminary investigation in the matter at any point of time and the CBI had directly taken up with Department of Posts seeking departmental action for Major Penalty Proceedings. As per the facts seen from Annexure A-11 Note sheet, the then Secretary, Posts had come to the conclusion that the matter did not merit further action. Due to some shenanigans in the office, persecution of the applicant continued. Secondly, it is stated that while moving for an RDA for Major Penalty against a government servant, a preliminary inquiry is absolutely essential under the rules laid down in Postal Manual Volume III. Such an inquiry has not taken place. It is to be noted that departmental proceedings are now commencing after the criminal proceedings have run its tortuous course. The CBI Courts have come down heavily against the agency in respect of the action taken against the applicant which nullifies the necessity for further follow up action through departmental proceedings. The orders of the Apex Court in ***G.M Tank*** refers. This action taken long after the incident involved is primarily meant to ruin the applicant's career.

The applicant calls to his assistance the judgements in *Ram Phool Meena, Sub Inspector v. Commissioner of Police, Delhi, Coal India Ltd. And Ors. v. Saroj Kumar Mishra* in Appeal (Civil) 1997 of 2007, *G.M Tank v. State of Gujarat & Anr, Assistant Collector of Customs & Anr v. U.L.R.Malwani and Anr., Upkar Singh v. Ved Prakash & Ors* in Appeal (crl) 411 of 2002 , *Capt.M.Paul Anthony v. Bharat Gold Mines Ltd. & Anr, T.T.Antony v. State of Kerala & Ors* in Appeal (crl.) No.689 of 2001 etc.

12. Respondents have filed a reply statement disputing the contentions raised in the Original Application. It is stated therein that the impugned Charge Memorandum at Annexure A-1 has been initiated against the officer as per the recommendations of the CBI. When the said Charge Memorandum was challenged before this Tribunal in 298/2017, this Tribunal had ordered that it will remain suspended till the proceedings before the CBI Court are concluded. The applicant has submitted two representations dated 30.8.2017 and 15.3.2017 which are under examination.

13. The facts relating to the applicant's service and the events succeeding the raid and search of the applicant's residence are admitted in the reply statement. The charge sheet impugned here dated 15.3.2017 was

issued for three different charges, under Rule 3(1), (ii) and (iii) of the CCS (Conduct) Rules. All three charges pertain to different issues involving dereliction of duty and for all the charges separate evidence and separate witnesses are to be examined. Acquittal in criminal cases is not a bar in proceeding with the departmental inquiry as the application of evidence, approach and findings thereof are entirely different. In a criminal trial guilt has to be proved beyond reasonable doubt, while in departmental proceedings, it is not necessary. The judgment of the Hon'ble Supreme Court in *Ajit Kumar Nag v. G.M, (PJ), Indian Oil Corporation Ltd.* (2005) 7 SCC 764 refers. It is argued that the acquittal in criminal cases in so far as the applicant is concerned is not an honourable acquittal and it is only one based on benefit of doubt. Failure to prove the charges means that acquitted person is being given the benefit of doubt and this does not amount to honourable acquittal.

14. In a catena of judgments, such as in Criminal Appeal No.35/2004 the Apex Court has strongly deprecated the tendency of Courts to interfere in departmental proceedings. In so far as the delay in initiating the proceeding is concerned, the respondents submit that their reply statement filed in O.A 298/2017 and marked as Annexure R-1 therein provides adequate justification.

15. The applicant has filed a rejoinder with the purpose to show that the evidence intended to be brought against the applicant and the witnesses to be examined in the disciplinary action are the same as presented in the criminal proceedings. Taking Annexure A-6 judgment as an illustration, it is reiterated that this judgment was on the basis of merit and was not on technical grounds pronounced after examining 75 prosecution witnesses, 168 prosecution documents and 3 Defence documents adduced in the Inquiry and trial of the criminal case. Further it is maintained that in ***Cpt.M.Paul Anthony***'s judgment, the Hon'ble Apex Court had ruled that when both the proceedings were based on the same set of facts, which were sought to be proved by the same witnesses and when the Court had already acquitted the appellant by rejecting the prosecution story, then in such situation disciplinary action against the appellant could not be sustained. The same view has been taken in ***G.M.Tank***'s judgment also and the Apex Court did not agree with the *ratio decidendi* in ***Anil Kumar Nag***'s case (2005) 7 SCC 764, ***Depot Manager, A.P. S.R.T.C v. Mohd.Yousuf Miya*** (1997) 2 SCC 699 and ***Krishnakali Tea Estate*** case (2004) 8 SCC 200. At Annexure A-15 series, three tables are submitted to show how the witnesses in the departmental proceedings are the same as those examined in the criminal proceedings already concluded.

16. In an additional reply statement filed by the respondents, they have reiterated their earlier position that the Charge Memorandum has been initiated at the instance and recommendations of the C.B.I and that the criminal proceedings and departmental proceedings operate in different fields and have different objectives.

17. We have heard Shri.Shafik M.A, learned counsel for the applicant and Mr.N.Anilkumar,SCGSC, learned counsel for the respondents. All documents and pleadings have been examined.

18. This is the third case filed by the applicant coming up for our consideration. The first O.A 278/2017 had been disposed of by this Tribunal directing that the departmental proceedings as initiated as per Charge Memorandum may not be proceeded with until the disposal of the criminal proceedings. The second Original Application No. 298/2017 was also decided by quashing the transfer of the officer from her present station on the ground that administrative reasons behind the move were not indicated. Both these Original Applications were disposed of through Annexure A-5 common order. As mentioned, the Charge Memo relates to alleged acts of commission or omission on the part of the applicant while performing the duties of the Regional Passport Officer, Chennai during the period from July 2005 till April 2009. The applicant, a Senior IPoS officer of 1987

batch, had been on deputation to the Ministry of External Affairs during the period. As stated in the Original Application, the story unravels with a raid conducted by the C.B.I at the residence of the applicant on 24/25.4.2009. Based on the raid and search, three F.I.Rs were registered and consequently three criminal cases filed in three different C.B.I Courts at Chennai as RC 20, 21 and 67 of 2009. Out of these, RC 67 of 2009 was closed by the Court on the recommendations of the C.B.I itself and the applicant was absolved of charges relating to the allegation that she had acquired assets which were disproportionate to her known sources of income. Criminal Case No.37/2011 in RC 20/2009 was also thrown out by the Principal Special Judge for CBI Cases, Chennai by its order dated 3.3.2017 and along with it went the charges relating to the applicant's illegal collaboration with one Ms.Fathima Muzaffer of M/s.Ahmed World Travels, Chennai. The remaining Criminal Case, namely, CC 29/2011 in RC 21/2009 also came to be dismissed by order of the Additional City Civil Court, the Principal Special Judge for CBI Cases, as per order dated 26.12.2018, acquitting the applicant from all charges. Intriguingly, in both cases, the Courts have made damaging personal references to the Investigating Officer, a Superintendent of Police of the C.B.I posted in Chennai at that time. Thus, ends the fate of a action taken by the foremost investigating agency in the country under relevant Sections of the Prevention of Corruption Act and IPC against the applicant.

19. We have examined the Articles of Charges contained in Annexure A-1. It is also admitted by the respondents that the alleged charges are relating to the same issues which were part of the criminal proceedings. The documents mentioned and witnesses cited are also the same which were the subject of the criminal proceedings. In the additional rejoinder, this is forcefully brought out in Annexure A-15 series. From this point of view, an impression gains ground that the respondents are indeed flogging a dead horse through this departmental action.

21 The misconduct alleged took place when the applicant was working on deputation to the Ministry of External Affairs. Yet, we have no evidence or indication that the said department has ever been consulted, at least, even to confirm the technical aspects involved in issuance of passport etc. As can be readily seen, considering the nature of the misconduct, if it has taken place, the Department of Posts are hardly equipped to form a judgment on the same. It is also seen that the department itself, as per copies of file notings that the applicant has produced at Annexure A-11, has not been unequivocal on the subject of proceeding against the applicant.

22. Shri.N.Anilkumar,SCGSC appearing on behalf of the respondents argued that the applicant's acquittal in C.B.I has not been an honourable one

and she has merely been given the benefit of doubt. A close scrutiny of the judgments of the C.B.I Courts do not support this version. It is further stated that the C.B.I has not examined some witnesses who were in the list. This might have been because of the fact that the C.B.I did not choose to rely on those witnesses. But what remains is the fact that the list of witnesses annexed to the Charge Memorandum is, by and large, the same as those presented by the C.B.I. He has also further pointed out our own judgment in O.A Nos.298/2017 & 278/2017 wherein we have considered the issue, had merely suspended the disciplinary action until the criminal cases have been concluded. To again, consider quashing of Charge Memo, would violate principle of *res judicata*. We do not think this is a valid argument. As the three criminal cases have been concluded, the situation before us now is significantly different from what was before us when the other two Original Applications were considered. It was further maintained that the departmental proceedings need not be stalled or interfered with as the applicant will get adequate opportunity to disprove the charges. It was also mentioned that this is the view taken in a catena of judicial pronouncements. While going with the principle involved, we would only like to add that this has to be examined with reference to the different facts of each case.

23. Shri.Shafik M.A, learned counsel for the applicant relied mostly

on the judgments in *Capt.M.Paul Anthony* and *G.M Tank* which have already been referred to. *Paul Anthony* had this to say about the first contention that the facts of the departmental and criminal proceedings were one and the same.

“There is yet another reason for discarding the whole of the case of the respondents. As pointed out earlier, the criminal case as also the departmental proceedings were based on identical set of facts, namely, 'the raid conducted at the appellant's residence and recovery of incriminating articles therefrom.' The findings recorded by the Inquiry Officer, a copy of which has been placed before us, indicate that the charges framed against the appellant were sought to be proved by Police Officers and Panch witnesses, who had raided the house of the appellant and had effected recovery. They were the only witnesses examined by the Inquiry Officer and the Inquiry Officer, relying upon their statements, came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case but the court, on a consideration of the entire evidence, came to the conclusion that no search was conducted nor was any recovery made from the residence of the appellant. The whole case of the prosecution was thrown out and the appellant was acquitted. In this situation, therefore, where the appellant is acquitted by a judicial pronouncement with the finding that the "raid and recovery" at the residence of the appellant were not proved, it would be unjust, unfair and rather oppressive to allow the findings recorded at the ex- parte departmental proceedings, to stand. “

24. *G.M Tank*, after an illuminating discussion on the question of whether a department proceeding can continue after the acquittal of a person in a Criminal Case, concluded:

“ The judgments relied on by the learned counsel appearing for the respondents are not distinguishable on facts and on law. In this case, the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in a Departmental case against the appellant and the charge before the Criminal Court are one

and the same. It is true that the nature of charge in the departmental proceedings and in the criminal case is grave. The nature of the case launched against the appellant on the basis of evidence and material collected against him during enquiry and investigation and as reflected in the charge sheet, factors mentioned are one and the same. In other words, charges, evidence, witnesses and circumstances are one and the same. In the present case, criminal and departmental proceedings have already noticed or granted on the same set of facts namely, raid conducted at the appellant's residence, recovery of articles therefrom. The Investigating Officer, Mr. V.B. Raval and other departmental witnesses were the only witnesses examined by the Enquiry Officer who by relying upon their statement came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case and the criminal court on the examination came to the conclusion that the prosecution has not proved the guilt alleged against the appellant beyond any reasonable doubt and acquitted the appellant by his judicial pronouncement with the finding that the charge has not been proved. It is also to be noticed the judicial pronouncement was made after a regular trial and on hot contest. Under these circumstances, it would be unjust and unfair and rather oppressive to allow the findings recorded in the departmental proceedings to stand.

In our opinion, such facts and evidence in the department as well as criminal proceedings were the same without there being any iota of difference, the appellant should succeed. The distinction which is usually proved between the departmental and criminal proceedings on the basis of the approach and burden of proof would not be applicable in the instant case. Though finding recorded in the domestic enquiry was found to be valid by the Courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings challenging the dismissal, the same requires to be taken note of and the decision in Paul Anthony's case (*supra*) will apply. We, therefore, hold that the appeal filed by the appellant deserves to be allowed.

In the instant case, the appellant joined the respondent in the year 1953. He was suspended from service on 8.2.1979 and got subsistence allowance of Rs.700/- p.m. i.e. 50% of the salary. On 15.10.1982 dismissal order was passed. The appellant has put in 26 years of service with the respondent i.e. from 1953-1979. The appellant would now superannuate in February, 1986. On the basis of the same charges and the evidence, the Department passed an order of dismissal on 21.10.1982 whereas the Criminal Court acquitted him on 30.1.2002. However, as the Criminal Court acquitted the appellant on 30.1.2002 and until such acquittal, there was no reason or ground to hold the dismissal to be erroneous, any relief monetarily can be only w.e.f. 30.1.2002. But by then,

the appellant had retired, therefore, we deem it proper to set aside the order of dismissal without back wages. The appellant would be entitled to pension . For the foregoing reasons, we set aside the judgment and order dated 28.1.2002 passed by the learned single Judge in Special Civil appln. No. 948 of 1983 as affirmed by the Division Bench in L.P.A. No. 1085 of 2002 and allow this appeal. However, there shall be no order as to costs. ”

25. After going through the case in detail and considering the circumstances in which we had earlier interfered with the Charge Memorandum, we now see even less reason to allow the proceedings to continue. The entire edifice of the case against the applicant has been built on the frame work of a raid and search. In addition, there was also a criminal charge. This was the subject of two charge sheets filed by the C.B.I. The third one, relating to acquisition of assets disproportionate to the applicant's known sources of income, was recommended to be closed by the prosecuting agency itself and closed with the permission of the Court. Both the active criminal proceedings have come to an end with acquittals for the applicant and strong criticism of the prosecuting agency. Despite the fact that nearly a decade has gone by since the issue started, the Department of Posts has decided to charge the applicant with Articles of Charges based entirely on the same set of alleged wrong doings. Here, it is important to consider that the applicant had not been working in the parent department and the services had been lent to the Ministry of External Affairs. Despite this fact even a minimum consultation is not seen to have occurred with that

Ministry. The Department of Posts, without even a preliminary Inquiry or a fact finding one, as is mandated under the Postal Manual, proposes to rush forward with the Charge Memorandum on the recommendations of the prosecuting agency alone. Since the prosecuting agency itself have come off looking bad in the judgments of the trial Courts, we are of the view that there is absolutely no leg for these charges to stand on. As pointed out already, the Department itself has not been of the same view regarding action against the applicant.

26. For the various reasons explained above, we allow the Original Application and quash the Charge Memorandum at Annexure A-1.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

List of Annexures

- Annexure A1 - True copy of the Memorandum No.11-12/CBI/2010-Vig dated 15.3.2017 issued by the 2nd respondent
- Annexure A2 - True copy of reply dated 27.3.2017 to A-1 charge memo
- Annexure A3 - True copy of the Order dated 7.10.2010 passed in CrI.M.P No.6196/2011 in RC 67/A/2009 of the Principal Special Judge, Chennai
- Annexure A4 - True copy of the judgment dated 3.3.2017 in CC No.37/2011 of the Principal Special Judge for CBI Cases, Ixth Addl.City Civil Court, Chennai
- Annexure A5 - True copy of the common order dated 21.7.2017 of this Tribunal in O.A No.298/2017 & OA 278/2017
- Annexure A6 - True copy of the Judgment dated 26.12.2018 in C.C No.29/2011 in R.C No.21/A/2009 of the Principal Special Judge for CBI cases Chennai
- Annexure A-7 - True copy of the representation dated 15.1.2019 submitted by the applicant
- Annexure A-8 - True copy of the representation dated 28.1.2019 submitted by the applicant
- Annexure A-9 - True copy of letter dated 13.4.2017 from CBI/ACB Chennai a/t DDG (Vigilance) Department of Posts, New Delhi
- Annexure A-10 - True copy of letter dated 22.11.2010 from CBI/ACB Chennai a/t DDG (Vigilance) Department of Posts, New Delhi
- Annexure A-11 - True copy of RTI reply No.34-96/2016 Vig dated 29.8.2018 along with Note Sheets 33/N & 34/N from File No.11-11/CVC/2011-Vig
- Annexure A-12 - True copy of complaint dated 24.2.2010 & Bias Petition a/t Director CBI, New Delhi
- Annexure A-13 - True copy of complaint dated 11.3.2010 a/t Director CBI New Delhi

Annexure A-14 - True copy of Judgment dated 14.2.2019 of the High Court of Madras in W.P Nos.25213, 23292, 23293 and 23846 of 2018 and W.M.P.Nos.27173, 27174, 27781, 27782, 29320 & 29321 of 2018

Annexure R-1 - True copy of the reply statement filed in O.A No.298/2017

Annexure R-2 - True copy of O.P (CAT) No.129/2018

Annexure A-15(a) - True copy of the comparative Table of the witnesses prepared by the applicant

Annexure A-15(b) - True copy of the comparative table of the evidences prepared by the applicant

Annexure A-15(c) - True copy of the comparative Table of the facts prepared by the applicant .

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