

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.021/00478/2019

Date of Order :17.05.2019.

Between :

G. Sudhakar, S/o. G. Bapi Raju, aged 57 years,
Occ: Deputy Superintendent of Police (Group A),
Central Bureau of Investigation, Anti Corruption Branch,
Sultan Bazar, Koti, Hyderabad.

...Applicant

And

1. Union of India, Rep. by the Secretary,
Ministry of Personnel, Public Grievances and Pensions,
Department of Personnel & Training, New Delhi.

2. The Deputy Secretary (AVD-II),
Ministry of Personnel, Public Grievances and Pensions,
Department of Personnel & Training, New Delhi.

3. The Director, Central Bureau of Investigation,
Delhi Special Police Establishment,
Block No.3, CGO Complex,
Lodhi Road, New Delhi – 110 033.

4. The Deputy Inspector General of Police
(Head of the Branch),
Central Bureau of Investigation,
Kendriya Sadan, Sultan Bazar,
Koti, Hyderabad.

5. Sri V. Chandrasekhar, IPS,
Occ: Inquiry Officer/ Deputy Inspector General of Police,
Central Bureau of Investigation, Anti Corruption Branch,
Kendriya Sadan, Sultan Bazar,
Koti, Hyderabad.

...Respondents

Counsel for the Applicants
Counsel for the Respondents

... Mr.K.R.K.V.Prasad
... Mrs.K.Rajitha, Sr.CGSC

CORAM:

THE HON'BLE MR.JUSTICE L.NARASIMHA REDDY, CHAIRMAN

ORAL ORDER

(As per Hon'ble Mr.Justice L.Narasimha Reddy, Chairman)

The applicant is working as Inspector of Police in Central Bureau of Investigation (CBI). He was issued a charge memo dated 29.07.2015, alleging that despite his vast experience in the field of investigation, he dealt with a case pertaining to RC.No.4(A)/2011-CBI-HYD, against one Mr.V.Suryanarayana, the then Executive Engineer, A.P.Fisheries Department, Government of Andhra Pradesh; in a casual and perfunctory manner. The applicant submitted his explanation denying the allegation. Not satisfied with the same, the Disciplinary Authority appointed Inquiry Officer and the Presenting Officer. The applicant submitted a representation with a prayer to furnish certain documents. It is stated that many important documents have not been furnished.

2. The applicant contends that on account of the delay on the part of the respondents in furnishing the documents, he suffered handicap in framing his defence and in that view of the matter, the entire proceedings are vitiated. On this premise, he filed this OA challenging the very charge memo. He has alleged bias against the Inquiry Officer and the Presenting Officer.

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3. Heard Mr.K.R.K.V.Prasad, learned counsel appearing for the Applicant and Mrs.K.Rajitha, learned Senior Standing Counsel appearing for the Respondents at the stage of admission.

4. It was way back in the year 2015, that a charge memo was issued to the applicant. The only article of charge reads as under:

“That the said Shri G.Sudhakar, DSP, CBI, ACB, Visakhapatnam, was working as Inspector of Police, Central Bureau of Investigation, Anti-Corruption Branch, Hyderabad, during the year 2010 to 2014. Shri G.Sudhakar while working as Inspector of Police at CBI, ACB, Hyderabad, had investigated a case in RC.04(A)/2011-Hyderabad, against Shri V.Suryanarayana, the then Executive Engineer, AP Fisheries Department, Government of Andhra Pradesh and unknown officials of Employees State Insurance Corporation (ESIC), New Delhi, Hyderabad and others.

2. That inspite of having 20 years of experience in the field of investigation of CBI Case, Shri G.Sudhakar had attended to only a small portion of allegations relating to misappropriation of funds and you had not conducted proper investigation and submitted Final Reports by deliberately leaving the main allegations of commission of criminal misconduct which is the main portion of the investigation by Shri V.Suryanarayana and unknown others of ESIC, New Delhi, Hyderabad in the matter of construction of Operation Theatre, Library-cum-Conference Hall at ESI Hospital, Sanathnagar, Hyderabad and the repair works to the existing buildings at the said Hospital and also at Vijayawada and Visakhapatnam for which the ESIC, New Delhi and already released the amounts to Shri V.Suryanarayana to the tune of crores of rupees. Further, Shri G.Sudhakar had not conducted proper investigation into the

irregularities pointed out by the Vigilance & Enforcement Department of the Government of Andhra Pradesh, Hyderabad, in the matter of misappropriation of funds of the Central Government Department (ESIC) by conniving with the unknown officials of ESIC.

3. That Shri G.Sudhakar had intentionally failed to carry out the investigation on the pointers given by Senior Public Prosecutor in FR.II as directed by HOB, CBI, ACB, Hyderabad, after and filed the charge sheet with intention to discharge the accused in the case.

4. That by the above mentioned acts, Shri G.Sudhakar has committed gross misconduct in as much as he failed to maintain devotion to duty and acted in a manner unbecoming of a Government Servant and thereby contravened Rule 3 (1) of CCS (Conduct) Rules, 1964.”

5. From a perusal of the above article of charge, it is evident that the main allegation against the applicant is that he did not conduct the investigation properly and has deliberately omitted main allegations of commission of criminal acts against one Shri V.Suryanarayana from the purview of the case. On his part, the applicant submitted his explanation and the Disciplinary Authority in turn, appointed an Inquiry Officer and the Presenting Officer. For one reason or other, there was hardly any progress in the matter for the past 4 years. It is only in the recent past, that the applicant appeared before the Inquiry Officer and made a request to furnish certain documents. The request was, however, not acceded to.

6. The occasion for this Tribunal to interfere with the OM would arise, if only –

- (a) it was issued by an authority not vested with the power;
- (b) where the allegations of misconduct in the article of charge, even if taken as true, do not constitute misconduct.

7. Though an attempt is made to raise these grounds, the OA does not reflect the same in the true form. During the course of the arguments, they are not elaborated. Much of the grievance of the applicant is about non-furnishing of certain documents.

8. In this context, it needs to be observed that the Inquiry Officer or the Disciplinary Authority would be under obligation to furnish such of the documents to the delinquent employee, as are relied upon by them in the proceedings. Conversely, if a document is not furnished to an employee on demand, the same cannot be relied upon, in the proceedings. Another situation is where the respondents are custodian of the records and if it is not furnished or permission to peruse is not acceded to, the reasons need to be mentioned. The inquiry has already been delayed, the reasons apart.

9. Therefore, the OA is disposed of with a direction that in case the applicant makes a request within one week from today for furnishing any document, the Inquiry Officer or the Disciplinary Authority, as the case may be, shall furnish the copies of such of the documents, as are relied upon in the course of inquiry. If the request for furnishing of any document is not acceded to, the reasons therefor shall be mentioned. The applicant shall not be entitled to delay the proceedings any longer or on any ground whatsoever. If the applicant feels aggrieved by non-furnishing of the documents, he shall be at liberty to plead the grounds in the event of any orders adverse to his interest, being passed finally, but shall not be entitled to canvass the legality thereof halfway through.

10. Since the proceedings are already delayed, the respondents are directed to conclude the inquiry as early as possible within a period of six months from the date of receipt of a copy of this order. This order, however, shall not be construed as having decided any question finally. There shall be no order as to costs.

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

Dated: this the 17 day of May, 2019
Dictated in the Open Court

Dsn.

