

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

O.A. No.021/00770/ 2018 and O.A.No.021/01097/2018

Date of Order :18.12.2018.

Between :

Pradip Karnakar, s/o late Santi Ranjan Karnakar,
Age 55 yrs, Occ:Manager Accounts (Under suspension),
r/o Flat No.1D, Vidyasagar Apartment, 2/15,
Raja S.C.Mullick Road, Vidyasagar Upanibesh,
Kolkata-700 086, West Bengal, presently residing at
H.No.10-32/1A, Temple Alwal Road,
Ranga Reddy, Secunderabad-500 010.

...Applicant
(in both OAs)

And

1. The Government of India, rep., by its Secretary,
M/o Micro, Small and Medium Enterprises,
Udyog Bhawan, Rafi Marg, Room No.123,
New Delhi 110 011.

2. The National Small Industries Corporation Ltd.,
(a Government of India Enterprise), rep., by its
Chairmen-cum-Managing Director, NSIC Bhawan,
Okhla Industrial Estate, New Delhi-110 020.

3. The National Small Industries Corporation Ltd.,
(a Government of India Enterprise), Zonal Office (East),
rep., by its Zonal General Manager, 20 B, Abdul Hamid
Street (7th floor), Kolkata-700 069.

4. The National Small Industries Corporation Ltd.,
(a Government of India Enterprise), rep., by its
General Manager, Technical Service Centre, Kamalanagar,
ECIL Post, Hyderabad-500 062.

5. Anil Kumar Ralhan, Inquiry Officer, NSICL,
B-22/A, Ground Floor,Kalkaji, New Delhi-110 019.

... Respondents
(in both OAs)

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Counsel for the Applicant ... Mr.CH.Janardhan Reddy

Counsel for the Respondents ... Mr.T.Hanumantha Reddy, Sr.PC for CG
rep., by Mr.Jose Kollanoor

CORAM:

**THE HON'BLE MR.JUSTICE L.NARASIMHA REDDY, CHAIRMAN
THE HON'BLE MRS.NAINI JAYASEELAN, MEMBER (ADMN.)**

ORAL ORDER

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

The applicant is working as Manager (Accounts) in the National Small Industries Corporation Ltd., (for short NSICL), a Government of India Enterprise, the 2nd respondent herein. He was issued a charge memo dated 27.02.2018, which contained several articles of charges. An explanation was submitted by the applicant denying the charges. Thereupon, the Disciplinary Authority appointed an Inquiry officer. During the course of inquiry, the applicant made several representations, with a request to furnish the documents and to make available the relevant information. On finding that his request was not being acceded to, he made a representation dated 10.06.2018 to the Inquiry Officer pointing out his grievances. That representation and certain other similar representations were in turn forwarded by the Inquiry Officer to the Disciplinary Authority through letter dated 15.06.2018. The latter in turn, addressed a letter dated 27.06.2017 stating that he examined the material forwarded to him by the Inquiry Officer and that he is of the view that the allegations of bias and unfairness against the Inquiry Officer are baseless.

2. The applicant filed O.A.No.770/2018 with a prayer to direct the Disciplinary Authority to change the Inquiry Officer. Even while the OA was pending, the Inquiry Officer proceeded with the inquiry and submitted the report on 08.09.2018. O.A.No.1097/2018 is filed challenging the report of the Inquiry Officer.

3. Mr.CH.Janardhan Reddy, learned counsel appearing for the Applicant, submits that ever since the commencement of the inquiry, the Inquiry officer was not fair to the applicant and that he was far from neutral. He contends that several documents, which were relied in the course of inquiry, were not furnished to the applicant. It is also stated that even while O.A.No.770/2018 filed for change of Inquiry Officer is pending, the Inquiry Officer proceeded with the matter and submitted an inquiry report and that itself shows the nature of bias, which he had towards the applicant.

4. Mr.Jose Kollanoor representing Mr.T.Hanumantha Reddy, learned Senior Panel Counsel, appearing for the Respondents, obtained instructions in the matter and submitted that except making baseless allegations of bias, nothing has been substantiated in this case.

5. The controversy in both these OAs revolves around the conduct of the Inquiry Officer, appointed in the disciplinary proceedings initiated against the applicant. At the commencement of the Inquiry by the

Inquiry Officer, the applicant did not raise any objection and he did not feel aggrieved by his appointment. A perusal of the representation dated 10.06.2018 submitted by the applicant discloses that he gave a detailed narrative of the proceedings that took place on 24.04.2018, 17.05.2018, 18.05.2018, 25.05.2018 and 01.06.2018.

6. Even a perusal of the order sheets, which are extracted, discloses that the Inquiry Officer was not making any attempt to be neutral or to be fair. The Inquiry Officer himself understood the manner in which the applicant was feeling about him. The letter dated 15.06.2018 reads as under:

“Reg:-Letters dated 10.06.2018 and 11.06.2018 of Charged Employee Shri Pradip Karmakar, Manager (A/Cs) (u/s) levelling allegations of bias, unilateral and pick & choose method against the Inquiry Officer.

I was appointed as inquiry officer vide your orders dated 03.04.2018 to look into the truth of charges levelled against Shri Pradip Karmakar, Manager (A/Cs) (u/s) vide Charge Sheet No.NSIC/EMDBP/Hyd/Estt.PK (US)/2017, dated 27.02.2018.

The charged employee Shri Pradip Karmakar has levelled allegations of bias, unilateral and pick & choose methods of decision in conduct of inquiry proceedings by

the undersigned. I am enclosing here with copies of his letters dated 10.06.2018 and 11.06.2018 (both sent under cover of speed post No.EN 423659432 IN on 11.06.2018 at 17.21 late in the evening) which were received by the undersigned in the event of 14.06.2018. These letters are self-explanatory.

Since the charged employee has levelled allegations of bias against I.O, I have adjourned further inquiry proceedings which were scheduled for 25.06.2018 & 26.06.2018 till further orders.

I am enclosing here with copies of relevant records of inquiry proceedings and my comments on various allegations for your further necessary action and orders please.”

In case, the Disciplinary Authority intended to examine the matter, it was expected of him to call for the comments or remarks of the applicant. However, without doing that he passed an order dated 03.07.2018, which reads as under:

“Please refer endorsement of our letter dated 15.06.2018 to the Disciplinary Authority in connection with your letters dated 10.06.2018 and 11.06.2018 alleging bias, unilateral and pick & choose methods etc., against IO. Accordingly, the inquiry proceedings scheduled for 25.06.2018 & 26.06.2018 were adjourned till further orders. In this regard, your are advised

to refer the General Manager, NTSC, Hyderabad (Disciplinary Authority) letter no.NSIC/EMDBP/Hyd/Estt.PK(US)/2017 dated 27.06.2018 to you, a copy of which has been endorsed to the undersigned.

In view of the above, it has been decided to hold further regular inquiry proceedings on 13.07.2018, 14.07.2018, 16.07.2018 and 17.07.2018 at 11:00 A.M at the same venue to examine management witnesses and record their oral evidence. You will be provided full opportunity to cross examine management witnesses.

Please note that no separate notice shall be issued for the above and if any party fails to attend inquiry proceedings on the above dates, time and venue, further inquiry proceedings shall be held on ex-parte basis which all concerned to please note.”

7. From a perusal of the above order dated 03.07.2018, it becomes clear that the Disciplinary Authority simply went by the version of the Inquiry Officer.

8. Once the applicant filed OA.No.770/2018 before this Tribunal for the only relief of change of Inquiry Officer, it was expected of the Disciplinary Authority as well as the Inquiry Officer to defer further proceedings. However, the Inquiry Officer proceeded with the inquiry at a greater pace

and submitted its report on 08.09.2018. This, in way, fortifies the apprehension of the applicant that the Inquiry Officer was not acceding to the reasonable requests. Added to that, a substantial portion of the report is denoted to show the neutrality on the part of the Inquiry Officer by referring to the objections raised by the applicant. For the remaining part, neither the charges are extracted nor the gist of the explanation submitted by the applicant is referred to. Almost unilaterally, the Inquiry Officer recorded the findings by adopting a procedure, which appears to have been evolved by himself.

9. The very purpose of holding an inquiry against the employee is to examine whether there is truth in the allegations contained in the charges. For this purpose, a neutral person has to be appointed. He is required to appreciate the various contentions that emanate from the department on one hand, and the defence that comes from the employee on the other hand. Since the impact of the disciplinary proceedings is to be borne by the charged employee, every care is required to be taken to ensure that he does not get any feeling of absence of neutrality on the part of the Inquiry Officer. If a charged employee makes an allegation that the Inquiry Officer is biased, the Disciplinary Authority is required to examine the matter duly ascertaining the version of the charged officer and the Inquiry Officer.

10. Reference, in this context, may be made to the orders issued by the Government of India, which are to the effect that whenever a charged employee raises an objection as to the lack of fairness on the part of the Inquiry Officer, the proceedings must be stalled. Heavy duty is cast on the Disciplinary Authority to ensure that the proceedings take place in a reasonable, unbiased and fair manner. We are of the view that the Inquiry proceedings against the applicant need to be reviewed.

11. We, therefore, allow O.A.No.770/2018 and direct the Disciplinary Authority to appoint another Inquiry Officer in place of the 5th respondent therein.

12. Since the report was submitted by the Inquiry Officer during the pendency of the OA.No.770/2018 that too without the participation of the applicant herein, we allow OA.No.1097/2018 and set aside the report of the Inquiry Officer.

13. There shall be no order as to costs.

Sd/-

(NAINI JAYASEELAN)
MEMBER (ADMN.)

Sd/-

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

Dated: this the 18th day of December 2018
Dictated in the Open Court

Dsn.