

Central Administrative Tribunal, Principal Bench

Original Application No. 1978 of 2003

New Delhi, this the 12th day of August, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.K. Naik, Member (A)

G. Chandrasekar, Scientist 'B'
E-33, CSIR Scientists Apartments,
Maharani Bagh,
New Delhi-65

.... Applicant

(By Advocate: Shri K.S. Negi)

Versus

1. Director General,
Council of Scientific and Industrial Research,
Anusandhan Bhavan,
2, Rafi Marg,
New Delhi-1

2. Director,
National Institute of Science Communication
and Information Resources,
CSIR,
Dr. K.S. Krishnan Marg,
New Delhi-12

3. Mr. R.S. Antil
Inquiry Authority & Senior Deputy Secretary,
Council of Scientific and Industrial Research,
Anusandhan Bhavan,
2, Rafi Marg,
New Delhi-1

.... Respondents

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

By virtue of the present application, the sole
prayer made is that departmental enquiry should be
entrusted to Central Vigilance Commission (CVC).

2. During the course of submissions, learned counsel
for the applicant has drawn our attention to Office
Memorandum No. 39/40/70-Estt. (A) dated 9.11.72 to contend
that as per the said O.M., the enquiry has to be entrusted

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to CVC.

3. Perusal of the said O.M. shows that what is being read is not a decision of the concerned Ministry. We reproduce the relevant portion of the same:

"As regards the point raised by the Staff Side that the Departmental inquiry should be entrusted to an independent impartial body or tribunal, it was clarified that inquiries in disciplinary proceedings against gazetted officers of all grades involving lack of integrity or an element of vigilance are alone entrusted to Commissioner for Departmental Inquiries under the Central Vigilance Commission and other cases of disciplinary proceedings involving purely administrative or technical lapses, are not referred to the said Commissioner. It was also not possible to entrust the departmental inquiries against non-gazetted employees to the Commissioner for Departmental inquiries in view of the very large number of disciplinary cases of each employee coming up every year. It was further pointed out that the existing instructions contained in Ministry of Home Affairs (now Department of Personnel) O.M. No. 6/26/60-Estt.(A) dated 16.2.61 (copy enclosed) already emphasised the desirability of only disinterested officers being appointed as Inquiry officers in departmental proceedings. It is also provided therein that while there is no bar to the immediate superior officer holding an inquiry, as a rule, persons who undertake this task should not be suspected of any bias in such cases, and that the authorities concerned should bear this in mind before an Inquiry officer is appointed in a disciplinary case."

4. This is a portion of what was clarified to the staff but the final decision has been taken in the subsequent paragraphs which does not indicate that it has been decided that all enquiries pertaining to specific grade of officers have to be given to CVC.

5. Not only this, admittedly the applicant had earlier filed O.A.No.1653/2002 before this Tribunal which was decided on 18.11.2002. At that time, no such request

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(A)

has been made. The said O.A. had been allowed only to the extent that another enquiry officer should be appointed. The same has been done. When earlier no such prayer had been made, it is too late in the day for the applicant to contend that the matter should now be referred to the CVC and the other enquiry officer so appointed in pursuance of the directions of this Tribunal, could not proceed with it.

6. Resultantly the O.A. being without merit must fail and is dismissed in limine

Issue DASTI.

Naik
(S.K. Naik)
Member (A).

18 Ag 1998
(V.S. Aggarwal)
Chairman.

/dkm/