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Central Administrative Tribunal, Principal Bench

Original Application No.2157 of 2003

New Delhi, this the 4th day of September, 2003

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

R.C. Garg,
S/o late Bhola Ram Garg
R/o II A-188, Nehru Nagar,
Ghaziabad-201 001 (UP)

.... Applicant

(By Advocate: Shri A.K. Trivedi)

Versus

1. Union of India,
Through it's Secretary,
Ministry of Defence
South Block, New Delhi.
2. The Chief Engineer,
HQs Western Command
Chandimandir, Chandigarh
3. The Chief Engineer,
Air Force (WAC)
Palam, Delhi Cantt-10.

.... Respondents

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The sole grievance of the applicant is that the documents are not being supplied to him and in this process his rights are being effected.

2. We do not dispute the proposition that in normal circumstances the documents should be supplied, not only the ones relied upon by the concerned department but even those which are required for the defence of the concerned person. However the position herein is little different. The department has written to the applicant:

"1. Reference E-2(Plg)(iv) letter No.24003/230/E2 Plg (iv) dated 27 Jun 2003 addsd to this office (E10 Sec) and copy to you.

2. It has been intimated by HQ Southern Command, Chief Engr vide their letter



No.130806/1/SWZ/GOA/4/234/E1D dated 24 Jul 2003 that since the charged officer has already retired from service and requisite documents are of confidential in nature and also bulky can not be supplied to the officer. It is therefore you are advised to peruse the requisite documents at GE (NW) Vasco and submit your statement of defence at the earliest."

3. Perusal of the same clearly shows that the documents are stated to be confidential in nature and are stated to be bulky and, therefore, the respondents are permitting the applicant to peruse the documents. It cannot, therefore, be termed to be denial of reasonable opportunity to defend the proceedings. Law requires reasonable opportunity to be granted. In the facts it must be stated that it is being granted.

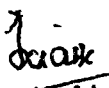
4. Reliance is being placed on a decision of the Supreme Court in the case of State of U.P. vs. Shatrughan Lal & Anr., JT 1998 (6) SC 55. Therein the Supreme Court, in emphatic terms held that failure to supply documents and asking the concerned person that he can inspect the same amounts to denial of effective opportunity. But the cited case will have little impact on the facts of the present case and must be stated to be distinguishable because therein, in that matter before the Supreme Court, it was not a controversy that the documents were voluminous.


5. At this stage, learned counsel for the applicant states that he is not interested in delaying the proceedings. He would inspect the relevant documents and submit his statement of defence at the earliest. The only



prayer made is that the directions should be issued for completing the departmental proceedings, if to be continued, within a stipulated time.

6. When rights of the respondents in this regard are not likely to be effected, while dismissing the present application, we direct without issuing the notice that in case the departmental proceedings have to continue after submission of the defence statement, the respondents should appoint the enquiry officer within one month from the date of submission of the said defence statement and complete the enquiry proceedings preferably within six months thereafter. This is subject to the condition that the applicant co-operates in the departmental enquiry.


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


(V.S. Aggarwal)
Chairman.

/dkm/