

(2014) 08 DEL CK 0006

Delhi High Court

Case No: W.P.(C) 5519/2014

A.K. Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision: Aug. 29, 2014

Hon'ble Judges: Vipin Sanghi, J; S. Ravindra Bhat, J

Bench: Division Bench

Advocate: M.K. Bhardwaj, Advocate for the Appellant; Vikas Mahajan, CGSC and Shyam Sundar Rai, Advocate for the Respondent

Final Decision: Disposed Off

Judgement

S. Ravindra Bhat, J.

C.M. NO.10961/2014 (for exemption)

Allowed, subject to all just exceptions.

W.P.(C) 5519/2014

1. The petitioner is aggrieved by the order of the Central Administrative Tribunal (CAT) dated 09.05.2014 in O.A. No. 85/2013; he had sought for quashing of disciplinary proceedings initiated against him for alleged major misconduct in regard to an action which is subject matter of criminal proceedings.

2. The petitioner was served with a charge sheet on 17.07.2006, which inter alia alleged as follows:

"It is alleged that Shri A.K. Singh, being the Incharge of purchase, Drug & F. Section of the GMSD, New Delhi was well aware of the day & day functioning of these sections. It was in the knowledge that on 19.04.95, there was stock of 999500 tablets of Richimol Plus in the Depot. Even after Shri Singh recommended the Local Purchase Proposal (LPP) for purchase of 10 lacs tablets of Richimol Plus, on the assumed/fake demand of regular indenter of Depot, in which stock of this tablet

was shown to be nil. Shri Singh also recommended purchase of 10 lacs tablets of Richimol Plus shown to have been demanded by Regular Indentor of the Depot dated 19.9.05. Shri A.K. Singh also recommended the purchase action for 10 lacs tablets of Richimil Plus shown to have been demanded vide indent 01.02.96 of LNJP Hospital, New Delhi. Shri A.K. Singh never verified the genuineness of these demand/indents which were created to fulfill the demand of the indent dated 31.3.95/17.4.95 and 11.3.96 of CGHS, New Delhi.

It was in the knowledge of Shri A.K. Singh that the tablets Richimol Plus purchased in the name of above Hospitals and the supply of the same were made to the CGHS, MSD, New Delhi against indent dated 31.3.95/17.04.95 & 11.03.96 and the rate enquiry against these indents were never finalized and the purchase was being made in the name of different hospital on fake demand, to fulfill the requirement of CGHS Indent dated 31.3.95/17.4.95.

By the above acts and omission, Shri A.K. Singh committed gross misconduct and failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a govt. servant and thus violated Rule No. 31(1) (ii) (iii) of CCS (Conduct) Rules, 1964. "

3. Apparently, the criminal proceedings had been initiated and the matter had been referred to the Central Bureau of Investigation (CBI), which had filed a charge sheet in 1999. However, the criminal proceedings have not yet culminated in any final judgment. The petitioner attained the age of superannuation on 31.07.2010 and contended that the long delay in the proceedings has resulted in causing him grave prejudice. The petitioner, therefore, submitted that the pendency of criminal and departmental proceedings have led to a situation whereby his final terminal benefits have not been released, and pension has been fixed provisionally. His claim of quashing of disciplinary proceedings and release of pension was, however, rejected. Learned counsel submits that the petitioner cannot be faulted for the delay in culmination of criminal proceedings, which is the basis for holding over of disciplinary proceedings initiated as far back as in 2006. Learned counsel relied upon the judgment of the Supreme Court reported as Chief Secretary, Govt. of Andhra Pradesh v. R. Veerabhadram, 1992 Supp (2) SCC 486, to say that long drawn out proceedings in such cases can be violative of employees' rights, particularly when he attains the age of superannuation. It was contended that if, indeed, the respondents were of the opinion that the charge of misconduct is sufficiently grave, they should have completed the proceedings at least by the time the petitioner attained the age of superannuation; this course of action was open even under Rule 9 of the CCS (Conduct) Rules. Learned counsel suggested that directions be issued to the respondents to take-up conclusive disciplinary proceedings and complete it within a time-bound manner.

4. This Court has considered the submissions. As is evident from the extracts of the charge sheet, certain serious allegations were levelled against the petitioner. The

petitioner"s counsel had contended that on almost identical facts, another officer was charged but was subsequently inflicted only with a cut in pension, which after some time, was restored. In these circumstances, he submitted that the petitioner should not be made to suffer indefinitely.

5. This Court is of the opinion that the parity in circumstances sought to be urged on behalf of the petitioner is unfounded in the circumstances of the case. The charges issued against the other officer, Sh. Y.K. Aggarwal appear to be different from the substance of allegations levelled against the present petitioner. That apart, the sequence of events in this case indicates that even though the CBI filed charge sheet in 1999, the respondents took a slightly charitable view and did not proceed departmentally at the very outset, at that stage, but preferred to wait for seven years till they issued a charge memo. The delay on the part of the respondents appears to be possibly on account of the pending criminal proceedings which had not culminated in a final order. In the circumstances, the relief of quashing of the disciplinary proceeding would not be an appropriate order. At the same time, this Court notices that the petitioner has been put to some hardship on account of withholding of his terminal benefits.

6. We are of the opinion that the respondents should consider the totality of circumstances and pass appropriate orders if it wishes to pursue the departmental proceedings. In such event, the petitioner may be informed of the position as well as the time and venue for such proceeding. In the event of such departmental proceedings being taken, the concerned criminal authorities shall cooperate and furnish certain copies of the relevant records which are relevant for the departmental proceedings, to the parties. The respondents shall endeavour to ensure that the disciplinary proceedings are completed thereafter at the earliest convenience, preferably within nine months thereafter.

7. The writ petition is disposed of in the above terms.