

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 15.03.2012

+ **W.P.(C) 3515/2011, CM 7345/2011 & CM 7348-7349/2011**

UNION OF INDIA

... Petitioner

versus

S. RAVINDER YADAV

... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr Pankaj Batra

For the Respondent : Mr Deepak Verma

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE V.K. JAIN

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. The Union of India has challenged the orders dated 08.09.2009 and 10.02.2011 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No. 2253/2008 and in MA 2607/2010 in the said OA, respectively.

2. By virtue of the order dated 10.02.2011, the Tribunal held that the disciplinary proceedings had abated on account of the fact that the same had

not been complied with, as directed by the Tribunal, within the time given by the Tribunal.

3. Initially, the respondent herein had filed the said OA No. 2253/2008, wherein he had sought the quashing of the charge memorandum dated 13.08.2003, whereby major penalty disciplinary proceeding under the CCS (CCA) Rule 14 was initiated. The Tribunal, by its order dated 08.09.2009, after considering all the facts and circumstances of the case, passed the following direction:-

“In view of the foregoing, we dispose of this OA with a direction to the respondents to complete the enquiry and pass the final order at least of the Disciplinary Authority within a period of three months from the date of receipt of a copy of this order, failing which the disciplinary proceedings would abate. Needless to say this would be subject to cooperation on the part of the delinquent official. No order as to costs.”

4. A copy of the order was received by the petitioner on 29.09.2009. Consequently, in terms of the said order dated 08.09.2009, the petitioner had three months to pass the final order of the disciplinary authority. In other words, the said order ought to have been passed by 29.12.2009. We are informed by the learned counsel for the petitioner that the enquiry was completed on 06.11.2009, but the disciplinary authority sent back the matter

to the enquiry officer and ultimately a supplementary enquiry report was prepared on 02.12.2009.

5. Immediately thereafter, on 04.12.2009, the petitioner had filed an application being MA No. 2477/2009 in which the petitioner sought extension of time. By an order dated 15.12.2009, the Tribunal granted time up to 01.03.2010 to comply with the direction given in the order dated 08.09.2009.

6. Since the final order was yet not passed by the disciplinary authority during the extended period, that is, by 01.03.2010, the petitioner moved another application for extension of time being MA No. 1000/2010 on 13.04.2010. By an order dated 01.06.2010, the Tribunal, once again, extended the time up to 30.06.2010. Even then, the final order had not been passed by the disciplinary authority. As a result, the petitioner filed another application being MA 1693/2010 on 09.07.2010 seeking further extension. The said application was disposed of by an order dated 28.07.2010 by extending the time up to 30.08.2010.

7. It is an admitted position that by 30.08.2010, the disciplinary authority had not passed the final order. No application for extension of time had also been filed by the petitioner prior to 30.08.2010. Seeing this, the respondent filed an application being MA 2607/2010 on 08.10.2010 seeking an order to the effect that the disciplinary proceedings had abated in view of the fact that the direction given by the Tribunal on 08.09.2009 had not been complied with during the time stipulated, as extended from time to time. A few months later, the petitioner also filed an application being MA 73/2011 on 07.01.2011 seeking further extension. Both the applications, that is, MA 2607/2010 and MA 73/2011, were taken up together and were disposed of by a common order dated 17.01.2011, whereby the Tribunal, once again, extended the time for passing of the final order by the disciplinary authority. The time was extended till 27.01.2011.

8. The learned counsel for the petitioner states that the disciplinary authority passed the proposed penalty order on 27.01.2011 itself. The petitioner filed another application being MA 385/2011 on 02.02.2011 seeking further extension of time. However, this time, the Tribunal did not accede to the request made by the petitioner and rejected the application and

declared that the disciplinary proceedings had abated. While doing so, the

Tribunal observed as under:-

“5. In the facts and circumstances of the case, we have no reservations in negating the plea made by the learned counsel for the respondents for being allowed to file a formal counter explaining the circumstances under which it has not been possible to comply with that order.

6. The credibility itself of a system comes to be under cloud in case the orders granted by the segment, of judicial dispensation are not implemented. In this case, the relevant order came to be granted on 08.09.2009. A perusal of the record indicates that the respondents applied for and were granted umpteen adjournments to facilitate implementation. However, the respondents did not implement that order. There has been no grievance till date that there was want of cooperation in the context on the part of the applicant.

7. In that view of things, we have no reservations in announcing the abatement of the relevant proceedings in terms of the main order itself. It is to state the obvious that the consequential service benefits, which may have been hitherto denied to the applicant on account of the pendency of the relevant disciplinary proceedings, shall be released to him within one month of the date on which a certified copy of this order is presented in the office of the Competent Authority subject, of course, to the rider that there are no other competent disciplinary proceedings pending against him which might impede the grant of the consequential benefits aforementioned. It is the pendency of only those proceedings which would be relevant in the context which pertain to the duration of entitlement and if those had been initiated in time. We have indicated this rider in the context of a verbal plea on behalf of the respondents because the disposal of the OA came about without the filing of pleadings by the respondents.

8. Disposed of accordingly.”

9. It ought to be pointed out that when the order dated 08.09.2009 had been passed by the Tribunal in the said OA 2253/2008, the petitioner had not challenged the same. In fact, it had accepted the said order and had, from time to time, moved applications seeking extension of time for complying with the direction given therein. We find that in the present writ petition, the petitioner has now also challenged not only the order dated 10.02.2011 but also the original order dated 08.09.2009 which, we feel, it cannot be permitted to do at this belated stage and that too after having accepted the said order by seeking several extensions of time for complying therewith. Insofar as the order dated 10.02.2011 is concerned, we find that the Tribunal has committed no fault inasmuch as the Tribunal had given ample opportunity to the petitioner to comply with the direction given by it in the order dated 08.09.2009. Despite repeated extensions of time, the petitioner was not able to ensure that the final order was passed by the disciplinary authority. We may also point out that the respondent had submitted his representation against the enquiry report on 26.02.2010, but the petitioner failed and/ or neglected to seek the opinion of the CVC and

the UPSC till 27.01.2011.

10. It must be remembered that when the original order dated 08.09.2009 was passed, it was made clear that if the direction given by the Tribunal was not complied with within the time stipulated, the disciplinary proceedings would abate. It is only in furtherance of that direction that the order dated 10.02.2011, which is impugned before us, has been passed. Despite the indulgence given by the Tribunal on several occasions, the petitioner did not comply with the direction to ensure that the final order was passed by the disciplinary authority within the time stipulated time. Consequently, the order of the Tribunal declaring that the disciplinary proceedings had abated, cannot be faulted. The writ petition is dismissed. There shall be no order as to costs.

BADAR DURREZ AHMED, J

V.K. JAIN, J

MARCH 15, 2012
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