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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment Delivered on: May 13, 2013

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W.P.(C) 7698/2012

UOI & ORS

..... Petitioner

Represented by: Mr.Asish Nischal, Advocate.

versus

RPS PANWAR

..... Respondent

Represented by: Mr.R.P.Kapur, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE V. KAMESWAR RAO

PRADEEP NANDRAJOG, J. (oral)

1. On October 25, 2004 a memorandum was issued to the respondent initiating disciplinary proceeding under Rule 14 of the CCS (CCA) Rules 1965. The Statement of Article of charge was enclosed as Annexure-1 to the memorandum, Statement of Imputation of misconduct was enclosed as Annexure-2. List of documents along there with the charge so proposed to be established was annexed as Annexure-3 and witnesses to whom the documents would be proved as also oral evidence led were as per Annexure-4.

2. Commencing its journey in the year 2004, raising a grievance that the Inquiry Officer concluded the inquiry proceedings without recording any evidence, in the year 2007 and not submitting a report even by the year 2010 respondent filed O.A.No.4139/2010 questioning the continuation of the

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inquiry informing the Tribunal that in the interregnum he had superannuated on April 30, 2006.

3. Vide impugned decision dated August 19, 2011, the Tribunal has found that the allegations constituting the indictment against the respondent pertained to the year 1999 when the respondent was concerned with a Notice Inviting Tender to purchase Fire Extinguishers.

4. Though not so expressly recorded, meaningfully read what the Tribunal has held is that the charge-sheet is issued to hold an inquiry into a stated wrong done by a Government servant and the purpose of the inquiry is to find the truth. The purpose of the inquiry is not to test the patience of the Government servant charged of.

5. The respondent superannuated on April 30, 2006. Last date when inquiry was held was 2007. More than 3 years had gone by. Report of the Inquiry Officer was yet to see the light of the date. Noting said facts the proceedings have been quashed.

6. In the writ petition it is asserted that the Tribunal ought not to have proceeded post haste keeping in view the seriousness of the allegations constituting the charge-sheet.

7. We have called upon learned counsel for the petitioner to produce before us the record of the inquiry and we are pained to note that the Inquiry Officer acted in a manner which is not recognized by law. The Inquiry Officer, Sh.N.K.Narang, seems to be a novice. He has no idea about the procedure of the law.

8. The daily order-sheet of the Inquiry Officer would record that the preliminary hearing was held on April 19, 2005. He noticed that charged officer has denied all charges. He has thereafter noted that the charged

officer and the Defence Assistant had desired to inspect the listed documents in original and that documents at Sl.No. 1 to 5, 9 to 18, 20, 21 and 22 have been examined. As regards the document at Sl.No.19 he noted that same is not available in his file. As regards the inspection of documents at Sl.No.6,7, and 8, he recorded that the same could be examined on May 06, 2005 in office of Vigilance Officer at Meerut.

9. There exists a note dated May 06, 2005 signed by the charged officer and his Defence Assistant recording that the two had attended the office of the Vigilance Officer and inspected documents at Sl.No.6,7 and 8. They penned their notes with respect to said documents and note that pages of some documents were not available. Some documents did not have proper serial numbers pertaining to the note-sheets.

10. The second daily order-sheet dated September 11, 2005, simply notes that the charge officer wishes to submit a list of additional documents. It takes note of the Xerox copy of the minutes of the meeting held on May 06, 2005 at Meerut. The next order-sheet is dated April 09, 2007 and we would highlight that on July 11, 2005 when the second hearing was held the next date notified was July 29, 2005.

11. The order-sheet dated April 09, 2007 records that charged officer has submitted additional documents. It notes that the additional documents filed by the charged officer were discussed. Para 3 of the daily order dated April, 9, 2007 records : *'With regard to the question of appearing as prosecution witness the charged officer has requested to decline the issue to appear as witness in his case or against other charged officer.'*

12. We just do not understand what he means.

13. We do not understand as how come the Inquiry Officer even

requested the charged officer to appear as a prosecution witness.

14. The next order-sheet is dated April 11, 2007, which records that some defence documents were not yet made available but the charged officer desires to drop the production thereof. The documents filed by the defence were marked as D-1 to D-14.

15. The last daily order-sheet is dated July 06, 2007, which records that the oral hearings were completed.

16. No witness was examined. Neither order-sheet records that the defence accepts the relied upon documents by the department to be exhibited. No order-sheet records that parties state that no oral evidence be led.

17. The requirement of sub-Rule (18) of Rule 14 of the CCS (CCA) Rules, 1965 to the effect that where a Government servant does not examine himself, the inquiring authority shall generally question the Government servant of the circumstances appearing against him in the evidence for the purposes of enabling the Government servant to explain any circumstance appearing in the evidence against him has not been complied with.

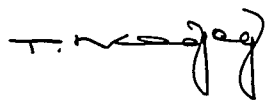
18. The order-sheet does not record the date when the Inquiry Officer submitted a report but we find that the Inquiry Officer has submitted a report on March 15, 2011 in which he has exonerated the respondent against which a disagreement note has been penned by the disciplinary authority after obtaining the advice from CVC. The disagreement note is dated August 16, 2011.

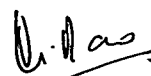
19. The matter concurrently awaits further resolution before the disciplinary authority. It would be of no use to permit the respondent to continue with the note of disagreement for the reason no evidence

whatsoever was led before the Inquiry Officer. Certain documents appeared to have been exhibited by the Inquiry Officer on his own.

20. Noting that the respondent superannuated from service on April 30, 2006; which is 7 years in the past, meaning thereby, as of today the respondent would be 67 years of age, we are of the opinion that ends of justice would require the matter to rest by affirming the view taken by the Tribunal quashing disciplinary proceedings against the respondent pertaining to the charge-sheet dated October 25, 2004.

21. No costs.


(PRADEEP NANDRAJOG)
JUDGE


(V. KAMESWAR RAO)
JUDGE

MAY 13, 2013
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