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HIGH COURT OF MEGHALAYA
AT SHILLONG

WP (C) No.382/2025

Date of order: 26.11.2025

Union of India represented by the Secretary, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), DOPT, Government of India, North Block, New Delhi-110001.
..... Petitioner

Vs.

Shri Arindam Som, IAS (Retd.)
..... Respondent

Coram:

Hon'ble Mr. Justice Soumen Sen, Chief Justice
Hon'ble Mr. Justice H.S. Thangkhiew, Judge

Appearance:

For the Petitioner : Dr. N. Mozika, DSGI with
Ms. K. Gurung, Adv

For the Respondent : Mr. B. Chakraborty, Adv with
Mr. S.D. Upadhyaya, Adv

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| i) | Whether approved for reporting in Law journals etc.: | Yes |
| ii) | Whether approved for publication in press: | Yes/No |

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

This writ petition has been filed by the Union of India assailing the judgment and order dated 08.04.2024 passed by the Central Administrative Tribunal (for short 'CAT'), Guwahati Bench in OA No.040/0287/2018.



2. The OA was filed by the respondent assailing the order dated 17.11.2017 passed by the disciplinary authority imposing a penalty of withholding 30% of the monthly pension of the respondent for a period of two years.

3. The CAT, without going into the merits of the matter, set aside the order dated 17.11.2017 passed by the disciplinary authority only on the ground that there has been inordinate delay and laches on the part of the respondent in initiating the disciplinary proceeding against the writ petitioner and relying upon the decisions of the Supreme Court in *State of Punjab & ors v. Chaman Lal Goyal*¹ and *P.V. Mahadevan v. Md. T.N. Housing Board*², quashed the charges. The CAT, in quashing the entire disciplinary proceedings, has also relied upon the guidelines issued for monitoring and expeditious disposal of the disciplinary proceedings cases vide DOPT's OM No.425/2012-AVD-IV(A) dated 29.11.2012 and the Circular No.02/01/2016 of Central Vigilance Commission (CVG) dated 18.01.2016.

4. The Union of India is assailing this order on the ground that the CAT could not have set aside the entire disciplinary proceedings without advertng to the merits of the matter.

¹ (1995) 2 SCC 570

² (2005) 6 SCC 636



5. Dr. N. Mozika, learned DSGI appearing on behalf of the writ petitioner has submitted that although the disciplinary proceedings were initiated one day prior to the retirement of the respondent, there were sufficient materials and evidence on record justifying the initiation of the disciplinary proceedings. The details were not available to the disciplinary authority prior to the date when it was decided to initiate disciplinary proceedings as the respondent was initially on deputation and it was on the basis of a complaint received from the FCI, it was decided to issue a show cause notice that had ultimately culminated in a charge-sheet and resulted in a penalty being imposed by the disciplinary authority.

6. The learned counsel for the respondent has submitted that there has been an inexcusable and inordinate delay on the part of the writ petitioners in initiating the disciplinary proceedings, as admittedly, the charge-sheet was issued on the day of his retirement and the proceedings continued for almost six years thereafter. Although the relevant guidelines on which reliance had been placed by the CAT mandatorily cast an obligation on the authorities concerned to conclude the proceedings as expeditiously as possible and within a reasonable time, the period of six years cannot be considered to be a reasonable



time for the conclusion of the disciplinary proceedings and the entire proceeding smacks of arbitrariness, malice and unfair of the writ petitioner.

7. The learned counsel has relied upon a few decisions of the Hon'ble Supreme Court, including the decisions already referred to in the impugned judgment, to argue that initiation of a disciplinary proceeding after an inordinate delay clearly vitiates the proceedings as it is likely to cause substantial prejudice to the respondent in defending the said proceedings. In the absence of an explanation being offered for not being able to initiate the disciplinary proceedings prior to the date of his retirement, it has to be presumed that a serious breach would likely to cause to the respondent in the event such proceedings are allowed to continue. In furtherance of his argument and the decisions relied upon by the CAT, the learned counsel has referred to the decision of the Hon'ble Supreme Court in *M.V. Bijlani v. Union of India & ors*³ (paragraphs 16, 17 and 19) to argue that the initiation of disciplinary proceedings on the verge of retirement and continuing for almost six years thereafter evidently would prejudice the delinquent officer and the writ petitioner would not be required to prove prejudice in such

³ (2006) 5 SCC 88



circumstances. The strong presumption of prejudice by reason aforesaid facts is required to be inferred is the sheet anchor of his argument.

8. The only issue required to be decided in this writ petition is whether the initiation of the disciplinary proceedings on the verge of retirement of the respondent and continuing such proceedings for almost six years before it had culminated in a final order passed by the disciplinary authority would vitiate the entire disciplinary proceedings. In our respectful reading of the decisions cited by the learned counsel for the respondent and also the decisions referred to in the impugned judgment, it does not demonstrate that in every case merely because the disciplinary proceedings were initiated at a very late stage and may have been continued for some time, would vitiate the entire disciplinary proceedings. The decisions cited and relied upon by the learned counsel for the respondent are clearly distinguishable on facts, as in all the cases, it could be seen that at the stage when the proceedings were initiated, the employee approached the court for redressal in which it has been clearly argued and demonstrated that in the event of the proceedings being initiated at this stage, it is likely to cause serious prejudice to the employee concerned as it would be well-nigh impossible for the employee to defend his case because of the long



passage of time. All the decided cases relied upon by the learned counsel for the respondent would demonstrate that the employee therein have clearly urged and was able to show that they would be unable to produce the relevant documents or witness to defend them in the said proceedings and in such background, it was held that continuation of the disciplinary proceedings would cause serious prejudice to the employee and would be in violation of the principles of fairness, justice and equity. It was considered to be a serious procedural and substantial breach of the rule of fairness in the event such proceedings were allowed to continue. Unlike the decisions on which reliance has been placed by the learned counsel for the respondent, the respondent has defended the proceedings well at every stage and in fact, he had also made a detailed representation against the imposition of any kind of penalty either recommended by the UPSC on the disciplinary authority which however, did not find favour with the disciplinary authority. In fact, the disciplinary authority did not agree with the recommendation of the UPSC in imposing 20% penalty on the monthly pension for a period of two years, and had enhanced it to 30% monthly pension for a period of two years.



9. The delayed initiation of the disciplinary proceedings has been considered in a recent judgment in *Union of India through Secretary and ors v. Udai Bhan Singh*⁴. In paragraph 18, in which on consideration of the earlier decisions, the order of the Supreme Court held thus:

“18. Now, it is well settled that the aspect of delay has to be dealt with on the facts of each case. In the decision of this Court in *State of Madhya Pradesh v. Bani Singh*, the irregularities, which were the subject matter of an inquiry related to 1975-1977. Hence, this Court held that it was not reasonable that the department had taken more than twelve years to initiate a disciplinary proceeding despite being aware of the irregularities. That was a case where there was an unexplained delay in the initiation of disciplinary proceedings. Subsequently, the position of law has been clarified by the decisions of this Court in *State of Punjab v. Chaman Lal Goyal*, *State Of A.P v. N. Radhakishan. and Forest Department v. Abdur Rasul Chowdhury*. In *State of A.P. v. Appala Swamy*, this Court after referring to the earlier decisions held thus:

“12.... So far as the question of delay in concluding the departmental proceedings as against a delinquent officer is concerned, in our opinion, no hard-and-fast rule can be laid down therefor. Each case must be determined on its own facts. The principles upon which a proceeding can be directed to be quashed on the ground of delay are:

- (1) where by reason of the delay, the employer condoned the lapses on the part of the employee:
- (2) where the delay caused prejudice to the employee.

Such a case of prejudice, however, is to be made out by the employee before the inquiry officer.

⁴ (2021) 11 SCC 393



13. This aspect of the matter is now squarely covered by the decisions of this Court in *Prohibition & Excise Deptt. v. L. Srinivasan*; *SBI; Registrar, Coop. Societies v. Sachindra Nath Pandey*.”

10. In view of the aforesaid, the judgment of the CAT cannot be sustained. However, insofar as the imposition of a penalty is concerned, the length of time could be a relevant consideration, as all these steps in the disciplinary proceedings are to be completed within a reasonable time. The disciplinary authority is required to decide the matter on the preponderance of evidence, but if there is perversity and lack of good faith manifest from the records and the respondent is able to justify its action, the imposition of penalty by the disciplinary authority in the limited scope of judicial review is required to be considered. It has to be seen if the respondent has acted bonafide and view taken by him is a possible view which at least finds support from the observation by UPSC in respect of one of the charges. If a decision for transportation at a higher rate is taken to ensure seamless supply of food grains merely because it is awarded temporarily to an entity at a higher rate may not ipso facto held to be a deliberate act to favour that entity. The newly selected entity has performed well during the contract period and nothing adverse was reported against it. This issue was only raised almost after six years on the verge of his retirement. There is nothing on



record to show that audit has raised any objection at any point of time. The respondent has in the note elaborately discussed the reason for higher rate and there has been no audit query or objection raised contemporarily. The respondent did not hide any fact. Mere error of judgment may not be a ground to hold an employee for misconduct. In the light of such issues as raised by the writ petitioner in the said proceedings, the quantum of punishment has to be assessed if at all it were held to be a misconduct. It is trite law that in deciding the quantum it has to be seen if it is arbitrary. The respondent appears to have flawless service career except the alleged incident for which disciplinary proceeding was initiated. Whether the punishment is disproportionate, if charges are at all established, is another matter to be considered by the CAT. We find that the impugned penalty imposed by the disciplinary authority is in fact, the subject-matter of challenge before the CAT.

11. Accordingly, the matter is remanded to the learned CAT for a fresh decision on the issues discussed in this order.

12. In view of the fact that the respondent has retired in 2011, we request the CAT to dispose of the Original Application as expeditiously as possible, preferably, within a period of six months from the date of



communication of this order, without granting any adjournment to either of the parties unless it is unavoidable. We make it clear that we have not gone into the merits of the order passed by the disciplinary authority.

13. The writ petition is allowed. The impugned order dated 08.04.2024 is set aside. However, there shall be no order as to costs.

(H.S. Thangkhiew)
Judge

(Soumen Sen)
Chief Justice

Meghalaya
26.11.2025
"*Lam*" DR-PS