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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4334/2017

RAVI KUMAR

..... Petitioner

Through: Mr. Pramod Gupta, Adv. with Ms.
Kreeti Joshi & Ms. Mannat Sindhu,
Adv.

versus

PEC LIMITED & ANR

..... Respondent

Through: Mr. Sanjeev Narula, CGSC with Ms.
Anumita Chandra, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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21.08.2017

1. The present petition is filed with the following prayers:-

“It is, therefore respectfully prayed, that this Hon’ble Court may graciously be pleased to issue an appropriate Writ, Order or Direction to the Respondents to:

(a) Direct the Respondents to expeditiously conduct and conclude the Disciplinary Proceedings against the Petitioner within a strict time frame, for which the prescribed time period as per the Employee’s (Conduct, Discipline & Appeal) Rules, 1975 of PEC Ltd. has already elapsed;

(b) Direct the respondents that in the event they fail to conclude the disciplinary proceedings within the time

stipulated by this Hon'ble Court, the disciplinary proceedings will be rendered null and void and the same would be deemed to have been quashed;

(c) Pass any such further order/order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. Admittedly, as on date, two charge sheets are pending against the petitioner, the first one is dated July 27, 2011 issued by the respondent No.2 the Ministry of Commerce & Industry under PEC rules, being the Appointing Authority and the second one is dated March 22, 2016.

3. It is the submission of Mr. Pramod Gupta that no final order has been passed on the first charge sheet even though six years have elapsed. Similarly, it is his submission that against the second charge sheet, the Enquiry Officer has been recently appointed on July 19, 2017. He states, he will be satisfied if a time period is set by this Court for the disposal of the proceedings pursuant to the aforesaid two charge sheets.

4. The respondent no.2 has filed an affidavit on the first charge sheet wherein paras 13, 14, 15 and 16 reveal the following:-

"13. The case were re-submitted to Hon'ble CIM for re-consideration. Ho'ble CIM in her capacity as DA ordered that the cases may be referred to CVC for taking a view again in the matter. The cases were accordingly referred to CVC. The

*matter pertaining to the Petitioner was re-submitted **vide office memorandum dated 29.01.2015.** Copy of office memorandum dated 29.01.2015 are annexed herewith and marked as **Annexure B.***

14. CVC re-iterated their earlier advice to impose major penalty on the Petitioner being the then Director, PEC.

15. The case files were submitted to Hon'ble CIM. Hon'ble CIM in her capacity as DA decided to disagree with the advice of CVC. In accordance with guidelines, all the 7 cases were referred to DoPT in June 2015 for their concurrence/advice to not to agree with the advice of CVC. Thereafter, DoPT requested to send some more documents related to the case the documents/information were provided to DoPT in June, 2016.

*16. It may be mentioned here that DoPT sought certain clarification with regard to the articles of charge pointing to the same transgressions by each of the seven officers and the penalties awarded to them. It further requested to clarify the rationale behind awarding different penalties on employees of different organizations. **The requisite information was submitted to DoPT vide office memorandum dated 21.02.2017 for further necessary action. No advice has been received from DoPT till date. The case is pending for want of advice of DoPT.** Copy of office memorandum dated 21.02.2017 is annexed herewith and marked as **Annexure C.**"*

5. From the aforesaid, it is clear that at present the matter is pending

consideration of the DoP&T. Mr. Narula states, he does not have any instructions as to what is the stage of consideration by the DoP&T. Noting the limited prayer made by Mr. Pramod Gupta and the fact that the proceedings have been pending since 2011, the Court deems it fit to direct the respondent No.2 to pass a final order on the charge sheet dated July 27, 2011 within two months from today.

6. Insofar as the second charge sheet is concerned, Mr. Gupta has drawn my attention to pages 59 and 60, which is part of the PEC Ltd. Employees' (Conduct, Discipline & Appeal) Rules 1975 as prevalent in the respondent No.1 Organization, to contend as the Inquiry Officer and Presenting Officer have been appointed, it is expected that the Inquiry Officer and the Disciplinary Authority shall confine themselves to the timeline stipulated under Rule 26 of the PEC Ltd. Employees' (Conduct, Discipline & Appeal Rules) 1975, which I reproduce as under, and a final order thereof shall be passed.

“26. DISCIPLINARY AUTHORITY:

1) The Disciplinary Authority, as specified in the schedule or any authority higher than it may impose any of the penalties specified in Rule 25 on any employee.

2) Appointment of Adhoc Disciplinary Authority where the prescribed Disciplinary Authority is unable to function as the Disciplinary Authority in

respect of any official, on account of his/her being personally concerned with the charges or being a material witness in support of the charges, the next higher authority in the Schedule i.e the Appellate Authority will appoint an 'Ad-hoc Disciplinary Authority'. The Appellate Authority and the Reviewing Authority as mentioned in the Schedule of Authorities shall remain unchanged.

3) Schedule of the time limit in conducting investigations and departmental inquiries as under:

<i>S.No.</i>	<i>State of Investigation or Inquiry</i>	<i>Time Limit</i>
<i>1.</i>	<i>Issue of charge-sheet, if required</i>	<i>Two months from the date of receipt of investigation report.</i>
<i>2.</i>	<i>Time of submission of defence statement</i>	<i>15 (Fifteen) days</i>
<i>3.</i>	<i>Consideration of defence statement</i>	<i>15 (Fifteen) days</i>
<i>4.</i>	<i>Issue of final orders in minor penalty cases.</i>	<i>Two months from the receipt of defence statement.</i>
<i>5.</i>	<i>Appointment of IO/PO in major penalty cases.</i>	<i>Immediately after receipt and consideration of defence statement.</i>
<i>6.</i>	<i>Conducting departmental inquiry and submission of report</i>	<i>Six months from the date of appointment of IO/PO.</i>
<i>7.</i>	<i>Sending a copy of the IO's report to the Charged Officer for his representation.</i>	<i>i) Within 15 days of receipt of IO's report if any of the Articles of charge has been held as proved: ii) 15 days if all charges held not proved. Reasons for disagreement with IO's findings to be communicated.</i>
<i>8.</i>	<i>Consideration of CO's representation and forwarding IO's report to the CVO.</i>	<i>One month from the date of receipt of representation.</i>

	<i>(Applicable for cases where there is a malafide/corruption/vigilance angle.)</i>	
9.	<i>Issuance of orders on the Inquiry Report.</i>	<i>One month from the date of CVO's advice.</i>

This plea of Mr. Gupta, is for conclusion of proceedings in accordance with the Rules, with which the respondent no.1, is bound. The plea being reasonable, I direct, that the Inquiry Officer and the Disciplinary Authority to strictly adhere to the time line prescribed under Rule 26, henceforth and complete the proceedings accordingly.

7. It is expected that both the parties shall cooperate in the conduct of the Disciplinary Proceedings.

8. In view of above, the petition is disposed of.

Dasti under the signatures of Court Master.

V. KAMESWAR RAO, J

AUGUST 21, 2017/ak