

08-03-2021
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**WPA 5553 of 2020
With
CAN 1 of 2020**

Kuljit Singh Nanrah
-Versus-

Union of India & Ors.
(Via Video Conference)

Mr. Achin Kumar Majumder
...for the petitioner

Mr. R.N. Bag,
Mr. S.N. Dutta
...for the respondents

The respondents/RPF authorities have filed the instant application CAN 1 of 2020 seeking leave to pass final orders in disciplinary proceedings against the petitioner. When the writ application was moved on June 22, 2020, a Co-ordinate Bench of this Court permitted the authorities to continue with the departmental enquiry but not to pass final orders.

Opposing the prayer of the R. P. F., counsel for the petitioner would argue that :-

- (a) The Enquiry Officer was appointed from out of jurisdiction of the Disciplinary Authority and hence, the enquiry proceedings themselves are without jurisdiction.
- (b) The Deputy Chief Vigilance Officer had actually directed issuance of charge

sheet without authority. The Disciplinary Authority, therefore, mechanically proceeded in commencing the proceedings against the petitioner without independently applying his mind.

- (c) The charge sheet indicates pre-determined intention of the RPF to punish the petitioner. Hence, the entire enquiry was, in fact, a sham.
- (d) The preliminary enquiry report based on which the charge sheet was issued, was not supplied to the petitioner despite specific request. The petitioner, therefore, was prevented from defending effectively in the enquiry.
- (e) The petitioner also asked for other additional documents for his defence, which were denied to him and hence, the proceedings are vitiated.
- (f) In terms of the Rule for enquiry against the petitioner, a charge sheet should have been issued within a month of suspension. The petitioner having been kept in suspension for one long year, was in a serious disability in defending himself in the enquiry. Even subsistence allowance was not paid to the petitioner in time.

This Court notes that the Disciplinary Authority was approached by the petitioner with some of the aforesaid grievances and the same have not been considered. Since the petitioner has an effective alternative remedy in the form of departmental appeal under the RPF Act, this court is inclined to allow the Disciplinary Authority to pass final orders prescribed under the aforesaid RPF Act. If the petitioner prefers an appeal the Appellate Authority shall take into consideration the grievances of the writ petitioner maintained hereinabove.

In addition thereto, the Appellate Authority may also consider the other grounds that the petitioner may urge before them.

It is made clear that this Court has not entered into any of the specific grievances raised by the petitioner since the Disciplinary Authority and the Appellate Authority may do so. The said Disciplinary Authority and Appellate Authority shall proceed in accordance with law and in terms of the RPF Rules, uninfluenced by any observation made hereinabove.

It is also made clear that in the event, any appeal being preferred by the petitioner against the order of the Disciplinary Authority, the Appellate Authority shall mandatorily dispose of the said appeal either within the time prescribed under the statute or as expeditiously as possible

but preferably within a period of 45 days from receipt thereof.

The interim order dated 22.06.2020 already passed in the matter shall stand modified accordingly.

With the aforesaid observations, CAN 1 of 2020 is disposed of.

In view of the above, WPA 5553 of 2020 is also disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this judgment, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)