

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14982 of 2018**

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1. The Union Of India through the Secretary, Indian Council of Agricultural Reserach, Ministry of Agriculture, Krishi Bhawan, Dr. Rajendra Prasad Road, New Delhi – 11001.
2. The Director General, Indian Council of Agricultural Research, Krishi Bhawan, Dr. Rajendra Prasad Rorad, New Delhi - 11001
3. The Under Secretary Vigilance, ICAR, Krishi BHawan, Dr. Rajendra Prasad Road, New Delhi-110001.
4. The Director, Central Vigilance Commission, Satarkta Bhavan, Block-A, GPO Complex, INA Delhi.
5. The Director, Indian Council of Agricultural Research, Complex for Eastern Region, ICAR Parisar, PO

... .. Petitioner/s

Versus

Pushpanayak S/o Late Badri Narayan Sinha, Resident of Village and PO-  
Mahihari, PS-Mahihari, District-Katihar.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Gautam Saha, Advocate  |
| For the Respondent/s | : | Mr. J.K. Karn, Advocate    |
|                      |   | Mr. Sujeet Kumar, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**  
**HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

**Date : 07-07-2022**

Heard learned counsels for the parties.

2. In the instant petition, petitioner – Department has  
assailed the order dated 21.08.2017 passed in  
O.A./050/00825/2015 by Central Administrative Bench, Patna



Bench, Patna. Respondent was subjected to disciplinary proceedings while issuing charge memo on 26.08.2015 on the alleged allegations that while he was working as Senior Administrative Officer in the Indian Veterinary Research Institute (IVRI), Izatnagar (U.P.), he had committed certain misdeeds. The alleged allegations related to of the year 2004-05 whereas charge memo was issued on 26<sup>th</sup> August, 2015. The respondent feeling aggrieved and dissatisfied with the departmental inquiry approached the Central Administrative Tribunal, Patna Bench, Patna (for short “Tribunal”). Tribunal set aside the charge memo dated 26.08.2015 on the ground of delay in initiation of inquiry. The Tribunal relied on the decisions of the Apex Court such as **State of M.P. vs. Bani Singh** [AIR 1990 SC 1308], **P.V. Mahadvan vs M.D. Tamil Nadu Housing Board** [2005 (6) SCC 636].

3. Petitioner - department, feeling aggrieved by the order of the Tribunal dated 21.08.2017 presented this petition.

4. Learned counsel for the petitioner vehemently contended that the Tribunal should not have interfered with the charge memo and no prejudice has been caused to the respondent. In support of the aforesaid contention, petitioner - department relied on the following decisions :



(i) *Secretary, Ministry of Defence and Others vs. Prabhash Chandra Mirdha* reported in (2012) 11 SCC 565.

(ii) *Chairman, Life Insurance Corporation of India and Others vs. A. Masilamani* reported in (2013) 6 SCC 530.

(iii) *Union of India and Another vs. Kunisetty Stayanarayana* reported in (2006) 12 SCC 28.

(iv) *Siemens Ltd. vs. State of Maharashtra and Others* reported in (2006) 12 SCC 33.

(v) *Union of India vs. Alok Kumar*, 2010 Vol. 5 SCC 349.

5. Learned counsel for the petitioner submitted that the alleged charge is of the year 2004 – 2005 and issuance of charge memo is on 26.08.2015. The department had taken certain steps like conducting preliminary inquiry on number of occasions, therefore, there is a delay of about ten years in initiation of inquiry against the respondent. It is further submitted that in the light of the aforesaid decisions of the Apex Court the Tribunal should not have interfered with the charge memo unless and until there is a violation of any Rule or charge memo was issued by incompetent authority or any prejudice is caused to the concerned employee/officer.

6. Heard learned counsel for the petitioner.

7. Core issue involved in the present petition is whether belated initiation of inquiry could be interfered by the Tribunal or



not? Undisputed facts are that the alleged allegations relates back to of the year 2004 – 2005 as is evident from the article of charge, list of documents cited as Annexure-III reads as under:

**“List of documents by which the Article of Charge framed against Shri Pushpanayak, Chief Administrative Officer, ICAR Research Complex for Eastern Region, Patna is proposed to be sustained.**

1. Note 1-18 and correspondence, 1-145 pages of IVRI F.No. 2-5/2003-MRDPC relating to recruitment of Shri R.N. Rai, to the post of T-3(Lab Technician) at IVRI, Izatnagar.

2. Technical Service Rules, circulated vide ICAR, New Delhi letter F.No.18-1/97-Estt.IV, dated 3<sup>rd</sup> February, 2000 containing model qualifications for the post of T-3 (Lab Technician) applicable at the time of the advertisement.”

8. Perusal of charge memo read with list of documents. It is evident that the petitioners are not relying on any documents subsequent to the year 2003. Even though learned counsel for the petitioners submitted that the delay in initiation of inquiry is for the reasons that certain preliminary inquiry was conducted. If it is so, it is not part and parcel of list of documents, therefore, the petitioners’ contention that delay is due to holding of preliminary inquiry between the year 2004 – 2005 to 2015 cannot be appreciated.

9. The cited decisions are not in respect of delay in initiation of disciplinary proceedings. Assuming that how the prejudice is caused to an employee or officer it is to be taken note of that the alleged allegation relates back to the year 2004 – 2005



and the documents cited at Annexure I, II and Annexure III (Annexure A/3) accompanied by memorandum dated 26.08.2015 is of dated 03.02.2000 – year 2003, therefore, employee or officer is prejudiced for the reasons that he has to examine records of the year 2000 to 2003.

10. Apex Court in the case of **Anant R. Kulkarni vs. Y.P. Education Society and Others** reported in **(2013) 6 SCC 515**, in para 14 held as under:

***“Enquiry at belated stage***

*14. The court/tribunal should not generally set aside the departmental enquiry, and quash the charges on the ground of delay in initiation of disciplinary proceedings, as such a power is dehors the limits of judicial review. In the event that the court/tribunal exercises such power, it exceeds its power of judicial review at the very threshold. Therefore, a charge-sheet or show-cause notice, issued in the course of disciplinary proceedings, cannot ordinarily be quashed by the court. The same principle is applicable in relation to there being a delay in conclusion of disciplinary proceedings. The facts and circumstances of the case in question must be carefully examined taking into consideration the gravity/magnitude of the charges involved therein. The court has to consider the seriousness and magnitude of the charges and while doing so the court must weigh all the facts, both for and against the delinquent officers and come to the conclusion which is just and proper considering the circumstances involved. The essence of the matter is that the court must take into consideration all relevant facts, and balance and weigh the same, so as to*



*determine, if it is in fact in the interest of clean and honest administration that the said proceedings are allowed to be terminated only on the ground of delay in their conclusion.”*

11. It is further noticed that there is no loss to the State Exchequer so as to hold that despite there is delay and laches on the part of the petitioner – department in initiation of inquiry there were financial loss caused to the exchequer which is required to be examined and recovered. In other words, one can understand that if there is any financial loss caused to the State exchequer, in that event if there is delay, such delay may not be a hurdle for initiation of belated inquiry. In the light of these facts and circumstances, the petitioners have not made out a case so as to interfere with the order of Tribunal dated 21.08.2017 passed in OA/050/00825/2015.

12. Accordingly, petition stands dismissed.

**(P. B. Bajanthri, J)**

**( Rajiv Roy, J)**

GAURAV S./-

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