



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

% Date of decision: July 26, 2023

+ W.P.(C) 9830/2023, CM APPLs. 37803/2023, 37804/2023 & 37805/2023

DR V K KADAM

..... Petitioner

Through: Mr. Ritesh Kumar Pandey, Adv.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

**Through: Mrs. Avnish Ahlawat, SC with
Ms. Tania Ahlawat, Mr. Nitesh
Kumar Singh, Ms. Palak Rohmetra,
Ms. Laavanya Kaushik and Ms. Aliza
Alam, Advs. for GNCTD**

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 37804/2023 & 37805/2023 (for exemption)

Exemption allowed subject to all just exceptions.

Applications are disposed of.

W.P.(C) 9830/2023

1. The challenge in this petition is to an order dated July 19, 2023 in OA 3279/2022, whereby the Tribunal has disposed of the petition filed by the petitioner challenging the chargesheet only on the ground of inordinate delay. The subject matter of the allegations is award of Tender while the petitioner was working as Medical Superintendent of Shri Dada Dev Matri



Avum Shishu Chikitsalaya, Dabri, New Delhi in the year 2011-2012 *inter alia* on the ground that the approval of the Secretary, Department of Health, Govt. of NCT of Delhi has not been taken.

2. It is a conceded position that a memorandum dated December 3, 2021 has been issued to the petitioner wherein three Articles of Charge have been framed against him.

3. The only ground, urged by the counsel for the petitioner before the Tribunal was that the chargesheet has been issued after much delay as the charges pertain to certain happenings in the year 2011-2012.

4. We find that the Tribunal has noted the reply filed by the respondents herein and has by referring to the Judgment of the Supreme Court in the case of ***Government of A.P. and Ors. vs. V. Appala Swamy, Civil Appeal No.393/2007*** decided on January 25, 2007 concluded that the disciplinary proceedings cannot be interfered when it is not the case of the petitioner that no misconduct been committed or charges framed are contrary to law. The Tribunal was also of the view that the charges cannot be generally set aside on the ground of delay, as such a power is *de hors* the judicial review. The Tribunal finally directed the respondents to complete the disciplinary proceedings as expeditiously as possible preferably within three months from the date of receipt of the order.

5. The submission of the learned counsel for the petitioner is primarily the same as was advanced before the Tribunal. He submits that respondents did not justify the delay which has resulted in the issuance of chargesheet for certain happenings in the year 2011-2012 that too in the year 2021. He also states, a speedy decision of the disciplinary proceedings is a fundamental right.



6. We are unable to agree with the submission made by the learned counsel for the petitioner on quashing of chargesheet for the simple reason, the petitioner has not urged the ground, that prejudice has been caused to him because of the delay in issuing the chargesheet for certain happenings in 2011-2012. His only ground that delay itself shall result in quashing of chargesheet. Suffice to state the charges are being substantiated through documents and witnesses. In that sense, delay per se shall not cause prejudice. This Court is not inclined to agree with the case set up by the petitioner in this petition. Since, the Tribunal has directed the completion of disciplinary proceedings as expeditiously as possible preferably within three months, we clarify that three months shall commence from today, subject to the petitioner cooperating in the conduct of the proceedings. The petition is dismissed. No costs.

CM APPL. 37803/2023

Dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

JULY 26, 2023/jg