

Rajesh Babu Vs. Ministry of Information and Broadcasting and ors.

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Court : Delhi

Decided On : Apr-09-2013

Judge : Pradeep Nandrajog

Appellant : Rajesh Babu

Respondent : Ministry of Information and Broadcasting and ors.

Judgement :

\$~7 * IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision : April 09, 2013 + W.P.(C) 2053/2012 RAJESH BABU Represented by:Petitioner Mr.Apurb Lal, Advocate versus MINISTRY OF INFORMATION AND BROADCASTING & ORS. Respondents Represented by: Mr.B.V.Niren, CGSC with Mr.Prasouk Jain, Advocate for R-1 Mr.S.M.Arif, Advocate for R-2 and R-3 CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE PRATIBHA RANI PRADEEP NANDRAJOG, J.

(Oral) 1. Heard learned counsel for the parties.

2. For the peculiar facts which we would be hereinafter noting, the writ petition has to be allowed.

3. It is a settled law that mere delay by itself in issuing a charge-sheet would by itself not be a good ground to quash the chargesheet as being belated, but where the delay causes prejudice in the form of evidence disappearing, such a charge-sheet has to be quashed.

4. The facts are that on November 14, 2007, a charge-sheet for minor penalty under Rule 16 of the CCS (CCA) Rules 1965 was served upon the petitioner alleging violation of General Financial Rules 1963. It was firstly alleged that minor civil works were got executed through private agencies in the years 1999 and 2001 beyond petitioners financial powers. It was secondly alleged that in the year 2000 petitioner locally purchased stationery in sum of `3,38,428/- at high rates. It was thirdly alleged that in the same year petitioner purchased consumables, such as detergent powder, soap and soap cases without ascertaining actual requirement. It was fourthly alleged that in the year 1999 he purchased two Air Conditioners beyond his financial power. It was fifthly alleged that in the year 2000 he purchased 186 torches costing `29,115/- which was beyond his financial power. Lastly it was alleged that in the same year he purchased 80 big buckets for which `10,000/- was paid but could have spent economically by purchasing small buckets.

5. In the reply to the charge-sheet the petitioner highlighted that purchases were made in the years in question after processing the requests in which various officers penned their notes. He highlighted that with the passage of time most of the files were missing. He specifically referred to relevant documents such as Store Requisitions, SRB and SIV, acronyms which neither counsel can explain to us, but would concede are documents throwing light on requisitions being made by the Heads of the different Departments.

6. Surprisingly, the disciplinary authority could not take a decision and the result was that the sword of Damocles continued to hang on the head of the petitioner, and continues to hang till date.

7. O.A.No.2616/2011 filed by him has been dismissed by the Tribunal directing that the inquiry be completed within three months. The order is dated March 30, 2012.

8. Even till today the disciplinary authority has not bothered to consider petitioners response.

9. The Tribunal has held that mere delay in initiating an inquiry cannot be a ground to quash the charge-sheet, but regretfully has over looked petitioners plea, which has gone un-rebutted, that due to passage of time relevant record being missing he is unable to justify his acts.

10. Noting that the charge-sheet pertains to a minor penalty and the alleged wrongs pertain to the years 1999-2001 and that the chargesheet was issued in the year 2007, we quash the same for the reason petitioner has made good the point that relevant record not being available, a prejudice was caused to him by the delay. This appears to be the reason why the disciplinary authority is unable to pass a final order because while doing so the disciplinary authority would have to deal with the contentions urged by the petitioner and if it would be the case of the disciplinary authority that the relevant record is available, reference would have to be made to the same. More than 5 years have elapsed since the reply was filed by the petitioner.

11. The writ petition is allowed. Charge-sheet dated November 14, 2007 is quashed.

12. No costs. CM No.4473/2012 Since the writ petition stands disposed of, instant application seeking ad-interim relief till disposal of the writ petition stands disposed of as infructuous. (PRADEEP NANDRAJOG) JUDGE (PRATIBHA RANI) JUDGE
APRIL 09 2013 skb

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