

Union of India and Others

Vs

R.S. Saini

Civil Appeal No. 1006 of 1991

(S. Ranganathan, S. C. Agarwal, N. D. Ojha JJ)

05.03.1991

ORDER

1. Leave granted.

2. This is an appeal from an order of the Central Administrative Tribunal. A departmental enquiry was conducted against the respondent, Shri R.S. Saini. The Enquiry Officer submitted his report on November 14, 1981 finding the respondent guilty of misconduct. The report was submitted to the disciplinary authority which passed an order of punishment as late as on January 30, 1983. This order of punishment underwent some modifications by the appellate authority on August 12, 1985 and July 9, 1986.

3. The Central Administrative Tribunal quashed all the three orders dated January 30, 1983, August 12, 1985 and July 9, 1986 on a very short ground. It referred to a memorandum issued by the Government of India on January 8, 1971, according to which the disciplinary authority should take a final decision on the enquiry report within a period of three months at the most. Treating this as a mandatory time-limit for the passing of the order of punishment, the Tribunal set aside the orders as abovementioned.

4. We have been taken through the terms of the memorandum referred to by the Tribunal. There is nothing mandatory about the terms of this memorandum. The very language of the memorandum makes it clear that it is only a guideline to ensure that disciplinary proceedings are complete as expeditiously as possible. It also suggests that where the disciplinary officer feels that it is not possible to adhere to the time-limit, a report should be made regarding the additional period needed for completing the same. That has also not been done in this case. But this itself indicates that the three months limit indicated is relaxable if the circumstances justify it. It cannot be treated as a condition, non-compliance with which will invalidate the order of punishment of the disciplinary authority. It is very difficult to construe this memorandum as imposing a rigid time-limit for the imposition of the order of the punishment as held by the Tribunal. Therefore, we set aside the order of the Tribunal and restore the application before the Tribunal for hearing on the merits. If the respondents has anything to urge against the order of punishment, it will be open to him to do so before the Tribunal.

5. The appeal is accordingly allowed, but in the circumstances of the case, we make no order regarding costs.

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