

(2021) 05 CAT CK 0004

In the Central Administrative Tribunal

Case No : Original Application No. 1287, 4348 Of 2015

Satish Chandra Verma

APPELLANT

Vs

State Of Gujarat & Others

RESPONDENT

Date of Decision : 07-05-2021

Acts Referred:

Gujarat Police Act, 1951 — Section 145
All India Service (Conduct) Rules, 1968 — Rule 3(1)
Gujarat Police Manual, 1975 — Rule 157, 158

Citation : (2021) 05 CAT CK 0004

Hon'ble Judges : L. Narasimha Reddy, J; Aradhana Johri Member (A)

Bench : Division Bench

Advocate : Manisha Luvkumar, Arun Bhardwaj, Hanu Bhasker, Gyanendra Singh, R K Jain, Rajesh Katyal, Piyush Gaur, Kumar Parimal

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant is an Indian Police Service (IPS) officer of 1986 batch, and of Gujarat cadre. He held various positions in his career. He became the

Inspector General of Police, Gujarat in December, 2006. He was also empanelled for the post of Joint Secretary by the Ministry of Home Affairs,

Government of India, vide order dated 30.07.2013. On 12.06.2014, the name of the applicant was forwarded by the State Government to the Central

Government, for Central deputation. Through an order dated 20.08.2014, the Department of Personnel & Training (DoPT) appointed the applicant as

Chief Vigilance Officer in the North Eastern Electric Power Corporation Limited (NEEPCL), Shillong (under the administrative control of Ministry of

Power) on Central deputation, at the level of Joint Secretary. He was also relieved by the Government of Gujarat on 13.11.2014. Not satisfied with

the said post, he filed an O.A. before the Tribunal. No relief was granted therein, and he ultimately joined the post.

2. The applicant filed O.A.No.4137/2014 before the Tribunal with a prayer to direct the respondents to convene the Departmental Promotion

Committee (DPC), to consider his case for promotion to the rank of Additional Director General of Police (Addl. DGP). It was alleged that the DPC

was not held consecutively for three years earlier to that. The O.A. was disposed of on 24.11.2014 directing that the representation made by the

applicant in his personal capacity or through an association, be considered and appropriate speaking and reasoned orders be passed, within 90 days.

3. The applicant was issued a charge memo dated 23.01.2015 with certain articles of charge. The DPC was convened on 27.01.2015, and the cases

of the applicant and five other officers were recommended for promotion to the grade of Addl. DGP. In view of the pendency of the disciplinary

proceedings against the applicant, the sealed cover procedure was adopted for him. Narrating these developments, an order was passed on

26.02.2015, and it was served upon the applicant.

4. The applicant filed O.A. No.1287/2015, challenging the charge memo dated 23.01.2015. He has also filed O.A. No.4348/2015, challenging the order

dated 26.02.2015.

5. He contends that the issuance of charge memo dated 23.01.2015 is the result of mala fide exercise of power and was an act resorted to, only with

a view to defeat his right to be promoted, even while his juniors were promoted to the post of Addl. DGP. He has also pleaded that the charges

framed against him are either factually incorrect or non-existent and they were invented, only to scuttle his chances of being promoted to the higher

post.

6. The applicant has elaborated, in great detail, the various facts, which, according to him, constitute a real background for issuance of the

memorandum of charge. Briefly stated, they are to the effect that an encounter took place at Ahmadabad in June, 2004, wherein four persons,

including the one woman by name Ishrat Jahan, were killed. The incident became the subject matter of proceedings before the Honâ??ble High

Court of Gujarat. A Special Investigation Team (SIT) was constituted by the Honâ??ble High Court and the applicant was one of the members

thereof. He contends that the investigation between 28.04.2010 and 15.10.2011 resulted in a report dated 15.12.2011, stating that the encounter was

fake in nature, and that, in turn, has displeased several senior officials in the administration as well as political executive in the State. It is also stated

that the High Court entrusted the investigation of the case to the CBI and a direction was also issued to avail the services of the applicant by the CBI

and to the State Government to make the services available. The other minute details furnished by the applicant in the O.As. are not being referred to.

7. The applicant contends that he was drawn for mid-career training program at a time when he was holding the post of Additional Commissioner,

Traffic, Ahmadabad. The program was scheduled between 09.04.2012 and 05.04.2012. Out of this, the initial three weeksâ?? training was to be held

in the Institution at Hyderabad and the last being at London. He contends that he was transferred and posted as the Principal of Police Training

College (PTC), Junagadh, as a vindictive measure. He submits that a representation made by him for retention at Ahmadabad or Gandhinagar was not

acceded to; and before he could join the post, he suffered an accident on 13.07.2012. It is also stated that short thereafter, the Honâ??ble High Court

has drawn him to SIT and there he worked from 27.07.2012 to 23.06.2013. According to him, the investigation carried out by the SIT resulted in filing

of charge sheet against the officers of Gujarat Police by the CBI on 03.07.2013 and the second charge sheet against an IB officer in the year 2014.

He contends that as a counterblast, a case of the year 1997 was re-opened against him and several proceedings in relation thereto ensued thereafter.

It is stated that on expiry of work in SIT, he joined duty in the State on 24.06.2013 in Gujarat Police Academy, Karai, and visited in connection with a

Government work. On next day, he said to have visited the Gujarat Police Housing Corporation, once again on official duty and applied for leave

between 26.06.2013 and 03.07.2013. It is stated that though an Additional DG (Training) rejected the leave, it was sanctioned by the Deputy General

of Police, and ultimately, he reported to duty on 05.07.2013 at the PTC Junagadh. Thereafter, he said to have submitted leave from 07.07.2013 to

12.03.2014 for undergoing surgery and that leave was also sanctioned.

8. The applicant contends that articles of charge contained in charge memo are only in relation to the so-called delay or lapse in joining the duty at the

PTC, Junagadh, and that the sequence of events narrated by him would not only make them factually untenable, but also indicate the lack of bona

fides on the part of the respondents. With these and other allied contentions, he challenged the charge memo as well as consequential orders, denying

him the promotion.

9. The applicant contends that the respondents have deviated from the prescribed procedure. According to him, a preliminary inquiry was required to be conducted before a charge sheet is issued to an officer of such status and that was not complied with.

10. On behalf of the respondents, detailed counter affidavits in both the O.As., together with the supporting documents, are filed. They contend that

O.A. No.1287/2015 is not maintainable, inasmuch as truth or otherwise of the allegations in a charge memo can be gone into only in the departmental

inquiry. They further contend that the charge memo was issued taking into account, the acts of omission on the part of the applicant and the same

cannot be the subject matter of any adjudication at this stage. The respondents have flatly denied the various allegations made and pleas taken by the

applicant. According to them, the efforts mentioned by the applicant are in the course of discharge of his duties and that they do not have any bearing

whatever, on the issuance of charge memo.

11. It is also stated by the respondents that once the disciplinary proceedings are pending against the applicant by the time the DPC met, the only

course provided for him under the law, is to maintain the sealed cover and accordingly, the result of the consideration of the applicant was kept in a

sealed cover. They submit that in case the applicant is exonerated of the charges by the Disciplinary Authority (DA), the sealed cover can be open

and further steps can be taken, depending upon the views expressed by the DPC about the applicant.

12. The O.As. are argued by the applicant in person. He has narrated the facts one after the other, as mentioned in the synopsis of the O.As. as well

as in the body and took us to the relevant documents. The effort of the applicant is to show that (a) the charges contained in the impugned charge

memo are factually incorrect or at least trivial in nature; and (b) the very issuance of the charge memo is tainted with mala fides. On both counts, he

made elaborated submissions. He contends that the omissions attributed to him

are mostly about the remaining unauthorizedly absent or about failure to join the duty within the stipulated time. According to the applicant, he had ample time to join duty in the PTC Junagadh and without even permitting the travel time or the normal time of joining, the posting itself was made in his absence and that there is no truth in the charges.

13. On the question of malice, the applicant contends that the State administration felt aggrieved on account of the role played by him in bringing out the truth about encounter and except that he has honestly discharged the duties assigned to him by the High Court at two stages, he did not take any steps contrary to law. He reiterated his plea that the charge memo is tainted with malice and deserves to be set aside.

14. Placing reliance upon the following judgments of the Honâ??ble Supreme Court, the applicant submits that the issuance of charge memo ought to have been preceded by a preliminary inquiry:

- (i) Rattan Lal Sharma v. Managing Committee, Dr.Hari Ram (Co-Education) Higher Secondary School & another, (1993) 4 SCC 10,
- (ii) Union of India & others v. Upendra Singh, (1994) 3 SCC 357,
- (iii) State of Punjab v. V K Khanna & others, (2001) 2 SCC 330,
- (iv) Meghmala & others v. G. Narasimha Reddy & others, (2010) 8 SCC 383,
- (v) Krushnakant B. Parmar v. Union of India & another, (2012) 3 SCC 178,
- (vi) Union of India & another v. Ashok Kumar Aggarwal, (2013) 16 SCC 147,
- (vii) Union of India & others v. B V Gopinath, (2014) 1 SCC 351; and
- (viii) Prem Nath Bali v. Registrar, High Court of Delhi & another, (2015) 16 SCC 415.

15. Arguments on behalf of the respondents are advanced by Ms. Manisha Luvkumar, learned Senior Advocate. She contends that O.A.

No.1287/2015 is premature, inasmuch as it is filed only against the charge memo and that the applicant has to await the outcome of the disciplinary proceedings. According to her, the various contentions, factual as well as legal, can be raised by the applicant in the departmental inquiry and the Tribunal cannot interfere with the charge memo, particularly when it is not even pleaded that the authority, who issued it, is not conferred with the power. She submits that the notification relied upon by the applicant in the context of conducting the preliminary inquiry is not meant for the officers of

All India Service and that, there is some defect in the translation provided by the applicant. She further submits that even in case of certain officers,

the conducting of preliminary inquiry was made discretionary and not mandatory.

16. The learned senior counsel submits that the applicant has made an effort to link the outcome of the investigation by the SIT in the participation of

the applicant to the charge memo and it is totally untenable. It is pleaded that the proceedings, that have taken place before the Court of law, have

their own progression and the applicant cannot link them to the disciplinary proceedings initiated against him. She submits that the various precedents

relied upon by the applicant have no bearing to the facts of the present case.

17. The challenge in O.A. No.1287/2015 is to a charge memo dated 23.01.2015. It contains four articles of charge and they read:-

Articles of charge:

Shri Satish Verma, IPS, (GJ-1986), whilst being posted as Principal, Police Training School, Junagadh has committed the following acts of commission

and omission during his service tenure, between 07/04/2012 to 30/06/2014.

Charge 1:

Shri Satish Verma remained absent from duty unauthorisedly without obtaining any permission either from the DGP or from State Government from

10/5/2012 to 18/5/2012. Shri Verma returned from Mid Career Training Phase-5 on 9-5-2014 after availing Ex India leave from 6-5-2012 to 9-5-2012.

Shri Verma was required to resume his duties at his Head Quarter i.e. Principal, Police Training College, Junagadh on 10-5-2012 as against which he

took charge of his Post of Principal, Police Training College, Junagadh on 19/05/12 from Shri Anil Pratham, in charge Principal, Police Training

College, Junagadh. As a senior IPS Official and Principal, Police Training College, Junagadh with 984 Police Trainees of a discipline force undergoing

training at the college Shri Verma's unauthorised absent from duty was unbecoming of his position and cadre.

The conduct of Shri Verma exhibits lack of devotion to duty and is unbecoming of senior member of the IPS and violative of Rule 3 (1) of the All

India Service (Conduct) Rules, 1968.

Charge 2:

Shri Satish Verma vide his application dated 03/07/13 no. PA/SCV/CL/82/2013

requested his immediate superior to grant EL from 26/06/13 to 13/09/13.

Subsequently, Shri Verma vide his application dated 08/07/13 no.PA/ACHARYA/SCV/EL/96/2013 conveyed not to act on his application dated 03/07/13.

Shri Verma vide his application dated 12/07/13 no: PA/ ACHARY/SCV/PRARAJA/98/2013 requested to grant medical leave for 68 days from 08/07/13 to 13/09/13.

Earlier Shri Verma had applied for 07 days Casual Leave from 26/06/13 to 02/07/13 (inclusive of benefit of the public holiday on Sunday 30/06/13)

vide his application dated 25/06/13 no : PA/SCV/CL/73/2013. This Application was sanctioned by DG & IGP vide order dated 04/07/13 no. A-

1/LEAVE/IPS/SCV/2589/2013. Thus Shri Verma was required to resume at his head quarter on 04/07/13. As informed by Shri Verma vide his fax

message dated 06/07/13 no: PA/ACHARYA/PC/92/2013, he has taken over a charge from in charge Principal, Police Training College, Junagadh on 06/07/13.

Thus, Shri Satish Verma remained on unauthorized absence during 4/7/2013 to 5/7/2013 (for 2 days). Shri Verma neither applied for leave nor obtained permission of any higher authority to proceed on leave till date.

The misconduct of Shri Verma as Principal, Police Training College, Junagadh attains gravity considering the fact that he is a senior member of

Disciplined Police Force and duty bound to remain present at his head quarter i.e. Police Training College, Junagadh.

As a senior IPS Official and Principal, Police Training College, Junagadh with Police Trainees of a discipline force undergoing training at the college

Shri Verma's unauthorised absent from duty was unbecoming of his position and cadre.

Therefore, the conduct of remaining unauthorisedly absent from duty by Shri Verma is unbecoming of a member of the IPS and also shows lack of devotion to the duty. Thus, Shri Verma has violated rule 3 (1) of AIS (Conduct) Rules, 1968.

Charge 3:

Inspector General of Police, State Crime Record Bureau vide his letter dated

24/06/12, no: SCRB/HDIITS/BPR/100 /2013 has issued a circular informing all steering group leaders that the Business Process Re-Engineering Meeting to be held at Karal, Gandhinagar on 25/06/13, was cancelled.

Despite cancellation of Business Process Re-Engineering Meeting a Karai on 25/06/13 Shri Verma remained unauthorisedly absent on 25/06/13 at his Head Quarter i.e. Police Training College, Junagadh.

Shri Verma was supposed to join his duty on 25/06/13 at his Head Quarter i.e. Police Training College, Junagadh. But Shri Verma despite 2 (two)

written instructions dated 25/06/13 no. Trg-PS/IPS-SCV-PTC/38/2013 & TRG/PS/IPS /SCV/PTC/1058/2013 of his immediate superior i.e. Additional

Director General of Police (Training), Gujarat State, Gandhinagar to report for duty at his place of posting i.e. Police Training College, Junagadh did

not join duty on 25/06/13. Thus the conduct of Shri Verma is violative of section 145 of the Gujarat Police Act, 1951.

Thus, the conduct of Shri Verma exhibits lack of devotion to duty, insubordination, which is unbecoming of a member of the IPS and is violative of rule

3 (1) of the All India Service (Conduct) Rules, 1968.

Charge 4:

In terms of Rule 157 and 158 of Gujarat Police Manual, 1975, Volume â?" I Shri Verma was required to physically remain present at his head quarter

i.e. Junagadh and physically take charge of his office as Principal, Police Training College, Junagadh on 25/06/13. However Shri Verma, as informed

by the in charge Principal, Police Training College, Junagadh and Inspector General of Police, Junagadh Range, Junagadh vide letter dated 27/06/13

no: PA/ CHARG/PTC/133/1493/2013, took over the physical charge of Principal, Police Training College, Junagadh on 06/07/13. Shri Verma himself

had informed his superiors about his taking over charge of Principal, Police Training College, Junagadh on 06/07/13 vide his letter dated 06/07/13 no.

PA/ACHARYA/ PTC/92/2013. Certificate of Transfer of Charge was also signed by Shri Verma (relieving officer) and E Radhakrishn (relieved

officer) on 06/07/13 only.

Despite of not having taken charge prior to 06/07/13 Shri Verma addressed following letters to his superiors and sought sanction of leave as Principal,

Police Training College, Junagadh misleading superior authority into believing

that he had already taken over as Principal, Police Training College, Junagadh and was seeking sanction thereafter.

1. Letter dated 25/06/13 No.: PA/SCV/CL/71/2013

2. Letter dated 25/06/13 No.: PA/SCV/CL/73/2013

Without having taken the charge as Principal, Police Training College, Junagadh and unauthorised having remained absent from the head quarter the

instructed, Shri S.G. Bhatt, Private Secretary to Principal, Police Training College, Junagadh, to fax above mentioned letters written under Shri

Verma's signature to his superiors giving an impression that he has resumed duties and had taken over charge at Junagadh. This was revealed in

the statements of Shri S.G. Bhatt, Private Secretary to Principal, Police Training College, Junagadh and Shri Atul Joshi, Computer Operator, Police

Training College, Junagadh taken by Shri N.D. Ninama, Vice Principal, Police Training College, Junagadh. It was revealed that Shri Verma was

sending E-mails to E-mail account of Shri Atul Joshi, Computer Operator, as Shri S.G. Bhatt was not having E-mail account, and Shri Joshi was

downloading the letter written by Shri Verma and after having it printed was giving to Shri S.G. Bhatt, Private Secretary to Principal, Police Training

College, Junagadh. After receiving the same, Shri Bhatt as per the instruction of Shri Verma, was fixing the same to superiors of Shri Verma. Thus by

using a fax machine in the office of the Principal, Police Training College, Junagadh, Shri Verma tried to create alibi of remaining present at Junagadh.

Thus Shri Verma misguided his superiors by falsely showing his physical presence at Junagadh and pretended as if he was working at his Head

Quarter Police Training College, Junagadh. Though till 06/07/13 he had not taken over the charge as Principal, Police Training College, Junagadh.

Thus, the conduct of Shri Verma is unbecoming of a member of the IPS and violative of Rule 3 (1) of the All India Service (Conduct) Rules, 1968.

The statement of imputations, the list of documentary evidence and the list of witnesses are appended to the charge memo. 20 documents are relied

upon and 9 witnesses are proposed to be examined.

18. The circumstances, under which the Tribunal or a Court can interfere with the charge memo, are fairly well known. It is only when (a) the charge

memo is issued by an officer not vested with the power; or (b) where no act of misconduct can be culled out even if the contents of articles of charge

are taken as true. There may also be instances, though rare, of interfering with the charge memo, if it is in relation to an old and stale matter. It is

relevant to take note of the principles laid down by the Honâ??ble Supreme Court in this behalf. In *Union of India v. Upendra Singh* (supra), it

was held:

â??6. In the case of charges framed in a disciplinary inquiry the tribunal or court can interfere only if on the charges framed (read with imputation or

particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to

any law. At this stage, the tribunal has no jurisdiction to go into the correctness or truth of the charges. The tribunal cannot take over the functions of

the disciplinary authority. The truth or otherwise of the charges is a matter for the disciplinary authority to go into. Indeed, even after the conclusion of

the disciplinary proceedings, if the matter comes to court or tribunal, they have no jurisdiction to look into the truth of the charges or into the

correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be. The function of the court/tribunal is one

of judicial review, the parameters of which are repeatedly laid down by this Court. It would be sufficient to quote the decision in *H.B. Gandhi, Excise*

and *Taxation Officer-cum-Assessing Authority, Kamal v. Gopi Nath & Sons*⁵. The Bench comprising M.N. Venkatachaliah, J. (as he then was) and

A.M. Ahmadi, J., affirmed the principle thus: (SCC p. 317, para 8

â??Judicial review, it is trite, is not directed against the decision but is confined to the decision-making process. Judicial review cannot extend to the

examination of the correctness or reasonableness of a decision as a matter of fact. The purpose of judicial review is to ensure that the individual

receives fair treatment and not to ensure that the authority after according fair treatment reaches, on a matter which it is authorized by law to decide,

a conclusion which is correct in the eyes of the Court. Judicial review is not an appeal from a decision but a review of the manner in which the

decision is made. It will be erroneous to think that the Court sits in judgment not only on the correctness of the decision making process but also on the

correctness of the decision itself.â??

7. Now, if a court cannot interfere with the truth or correctness of the charges even in a proceeding against the final order, it is understandable how

can that be done by the tribunal at the stage of framing of charges? In this case, the Tribunal has held that the charges are not sustainable (the finding

that no culpability is alleged and no corrupt motive attributed), not on the basis of the articles of charges and the statement of imputations but 5 1992

Supp (2) SCC 312 mainly on the basis of the material produced by the respondent before it, as we shall presently indicate.â??

19. It is not the case of the applicant that the charge memo was issued by an authority not vested with the power to do so. It is issued by the Home

Department of Government of Gujarat and by an order in the name of Governor of Gujarat. Being the highest authority in the Home Department, it

was very much competent for the Secretary to issue the charge memo.

20. Coming to the second aspect, the applicant does not contend that even if the articles of charge are taken as true, no act of misconduct can be

attributed to him. On the other hand, he made strenuous efforts to plead each and every fact, referable to the charge memo in minute detail, in his

effort to demonstrate that they are factually incorrect. That exercise, in fact, has to be undertaken during the course of inquiry, but not before the

Tribunal. The more and more the Tribunal is made to address the facts pleaded by the applicant, there is every likelihood of a finding being recorded

or view being expressed, that apart, the impermissibility for the same in law, it may not subserve the purpose of the applicant also. There is no reason

to believe that the various facts, which the applicant has attempted to plead before us, would not be appreciated or entertained by the inquiry officer

and thereafter by the DA. The law provides for a foolproof method of inquiry, duly giving opportunity to the charged officer, at every stage. Apart

from cross examining the witnesses, mentioned in the list of witnesses, the applicant can even adduce his own oral and documentary evidence. He can

point out the lacunae or deficiencies in the evidence, that may be adduced by the respondents.

21. Though it is pleaded by the applicant that the respondents ought to have conducted a preliminary inquiry before issuing the charge memo, he is not

able to place before us, any provision of law, that mandates it. Reliance is placed upon the circular dated 8.09.2004. The original is in Gujarati and the

translation thereof is at page 540 of the paper book (O.A. No.1287/2015). Though it is stated that the translation is not accurate, we find that even

from the copy made available to us, the purport thereof is only advisory in nature. Clause (7) thereof reads:-

“(7) It is advisable to obtain the preliminary explanation of the government officer/employee regarding the misconduct/ lapse revealed during a preliminary inquiry against him or otherwise. But, where the superannuation of the government employee is near and in obtaining his preliminary explanation, he would superannuate and, consequently, if it appears that it would be possible to conduct Departmental Inquiry against him, or the preliminary explanation cannot be obtained for some other reason, in such special cases, there is no objection to the initiation of discipline-related action by the Disciplinary Authority against the responsible officer /employee without obtaining his preliminary explanation.”

22. The circular is in respect of the officers and employees of the State Government and it does not apply to the All India Service officers.

23. The plea of the applicant that (a) there is suppression of facts; and (b) there is non-compliance of statutory Rules. The first plea of the applicant

regarding suppression of facts in framing of the charges cannot be decided by us at this stage. The very purpose of conducting the inquiry is to place

the department under obligation to prove the charges and to enable the delinquent employee to disprove the same. So far as the plea as to non-

compliance of the statutory provisions, we have already made it clear that the circular relied upon by the applicant is only relevant to the employees of

the State Government and there again, discretionary and not mandatory.

24. The applicant has drawn our attention to various documents placed on record. We do not propose to deal with the same, lest it may amount to

expressing any final view on the charges. He places reliance upon the judgments of the Hon^{ble} Supreme Court, referred to above, and drawn our

attention to respective paragraphs. Here again, we are convinced that there is no scope to assume that the charges are tainted with malice or mala

fides. Except placing before us the broad developments, that have taken place in the investigation pertaining to Ishrat Jahan's case, the applicant

did not name any particular officer or authority alleging that they have entertained a specific grudge against him and that, in turn, resulted in issuance

of charge memo. Further, he did not name any of those authorities or officers. Though he impleaded the Joint Secretary, Home Department, who

issued the charge memo, nowhere in the body of the O.A., any specific acts of malice are attributed to him.

25. The applicant relied upon the judgment of the Honâ??ble Supreme Court in Rattan Lal Sharma v. Managing Committee, Dr. Hari Ram

(Co-Ed.) Higher Secondary School (supra). That was a case in which the plea of bias, a facet of principles of natural justice, was raised. On facts,

it was found that a person who complained against the employee was made part of the inquiry team. That was held to be impermissible. Firstly, the

plea was examined after conclusion of the proceedings, and not at the inception. Secondly, the plea here is substantially different.

26. The applicant has also complained about the delay in conclusion of the disciplinary proceedings. He submits that though no interim order was

passed by the Tribunal, the respondents did not proceed with the same. It was open to the DA or the inquiry officer to proceed with the inquiry,

inasmuch as no order of stay was granted by this Tribunal. However, if one takes into account, the attendant circumstances and the various facts

pleaded by the applicant, the respondents wanted to avoid a situation of being accused of proceeding with the inquiry, even while the O.A. is pending.

27. In Prem Nath Baliâ??s case, the Honâ??ble Supreme Court observed that the DA must endeavour to conclude the proceedings within six

months, and in certain cases, in one year. The observation gets attracted, when the charge memo is not under challenge. Further, there is nothing in

that to suggest that the proceedings would lapse, if not concluded within that time. The relevant para reads as under:

â??28. Keeping these factors in mind, we are of the considered opinion that every employer (whether State or private) must make sincere endeavor

to conclude the departmental inquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such

proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due

to certain unavoidable causes arising in the proceedings within the time frame then efforts should be made to conclude within reasonably extended

period depending upon the cause and the nature of inquiry but not more than a year.â??

28. To avoid further delay, the authorities can conclude the proceedings within a specific period.

29. The applicant has relied upon the judgment of the Honâ??ble Supreme Court in *Krushnakant B. Parmar v Union of India* (supra) in support of

his contention that he had ample time to join the place to which he was transferred. Two factors dissuade us from dealing with it in detail. The first is

that the adjudication in that case took place after conclusion of the disciplinary proceedings and imposition of punishment. The second is that the

various facets of the plea need a detailed examination of the relevant documents and oral evidence.

30. The result is that we do not find appropriate to interfere with the charge memo.

31. In O.A. No.4348/2015, the challenge is to an order dated 26.02.2015 where it is stated that the DPC met on 27.01.2015 to consider the cases of

all the eligible officers, and though the case of the applicant was also considered, the result thereof was kept in a sealed cover. This is fully in

conformity with the judgment of Honâ??ble Supreme Court in *Union of India v K V Janakiraman* [AIR 1991 SC 2010], and the O.M. issued by

the DoPT in this behalf. The sealed cover can be opened only when the applicant is exonerated in the pending disciplinary proceedings. Therefore, no

interference is warranted with the order impugned in this O.A.

32. Accordingly, the O.A. No.1287/2015 is dismissed, but the respondents are directed to conclude the disciplinary proceedings referable to the charge

memo dated 23.01.20215 within nine months from the date of receipt of a copy of this order.

33. O.A. No.4348/2015 is also dismissed. It is, however, observed that in case the applicant is exonerated of the charges in the disciplinary

proceedings, that are now pending against him, the sealed covered maintained by the DPC, which met on 27.01.2015, shall be opened and the

consequential steps shall be taken in accordance with law.

There shall be no order as to costs.