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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 782/2001

New Delhi this the 28th day of March, 2001.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

Shri Satparkash S/o Shri Raghubir Singh
R/o Village and Post Office Shamaspur
District & Tehsil Gurgaon
Haryana.

... Applicant

(By Shri H.C.Sharma, Advocate)

-versus-

1. Govt. of National Capital Territory of
Delhi
Through its Chief Secretary, I.P.Estate
Secretariat
New Delhi.

2. Project Manager
DS & CM Project
P.W.D., 12th Floor
M.S.O. Building
New Delhi-110 002.

... Respondents

O R D E R (ORAL)

Shri Justice Ashok Agarwal:-

In disciplinary proceedings initiated against the applicant on the ground of conviction on a criminal charge for an offence of rape punishable under section 376 I.P.C., a show cause notice was issued for awarding an order of penalty under Rule 19 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. Applicant in response to the same, has submitted his representation on 28.9.2000 at Annexure A-III. By an order passed on 23.10.2000 at Annexure A-II, a penalty of dismissal from service has been imposed upon the applicant. The same is impugned by the applicant by instituting the present OA.

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2. It is contended by Shri H.C.Sharma, the learned advocate, who appears in support of the OA that the disciplinary authority in the instant case has failed to afford the applicant a proper opportunity of making the representation on the penalty proposed to be imposed before passing the aforesaid order of penalty as required under proviso to Rule 19(i) of the CCS (CC & A) Rules, 1965. Aforesaid proviso provides as under:-

"Provided that the Government servant may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made under clause (i)."

According to Shri Sharma, the disciplinary authority was required to disclose his mind to the applicant that he proposes to impose a penalty of dismissal from service and thereafter afford him an opportunity to show cause.

3. In our view, the present OA is not maintainable as the aforesaid order of penalty imposed upon the applicant by the disciplinary authority is appealable which remedy the applicant has not exhausted. Shri Sharma makes a statement that the applicant will prefer his appeal to the appellate authority within a period of two weeks from today. On such appeal being filed, the appellate authority will dispose of the same expeditiously and in any event within a period of three months from the date of the filing of the appeal.

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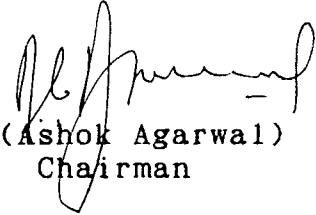
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4. Present OA is disposed of with the aforesaid direction.



(S.A.T. Rizvi)
Member (A)

/sns/



(Ashok Agarwal)
Chairman