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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.273/95

NEW DELHI THIS THE 8th DAY OF FEBRUARY, 1995

HON'BLE SHRI J.P. SHARMA, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER (A)

Shri G.D. Sootha
Advisor,
Ministry of Non-conventional Energy Sources
14, CGO Complex,
Lodi Road,
New Delhi-110003. ...Applicant

(By Advocate : Shri K.N. Bahuguna)

VERSUS

UNION OF INDIA, THROUGH

1. The Secretary,
Ministry of Non-conventional
Energy Sources,
14, CGO Complex,
Lodi Road,
NEW DELHI-110003
2. Shri U.N. Panjiar
Joint Secretary,
Ministry of Non-conventional
Energy Sources,
14 CGO Complex,
Lodi Road,
NEW DELHI. ...Respondents

(By Advocate : None)

JUDGEMENT (ORAL)

Hon'ble Shri J.P. Sharma, Member (A)

In this application filed on 6.2.1995
the applicant has prayed for the grant of
the relief that the respondents be directed
to restrain themselves from proceeding to
conduct the departmental proceedings against
him on the basis of the Memo dated 9.11.1994
enclosing Annexures detailing the articles
of charges impugning the mis-conduct for

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certain acts and omissions whereby the applicant has acted contravening Provisions of Rule 3 (1) (i), (ii) & (iii) of CCS(Conduct) Rules, 1964.

2. The contention of the learned counsel for the applicant is that the Superintendent of Police, C.B.I. , ACP , New Delhi has lodged a report on 6.2.1991 for some acts done by the applicant during the year 1986 and 1987. Another FIR during the period 1987 to 1989, and the third during the year 1988 which was lodged on 27.3.1981 and the acts committed in the year 1985 whereby certain offences under Section 120-B r/w 420,420,467 & 471 IPC Sec.5(2) r/w Sec.5(1)(d) of P.C. Act 1947 has been committed. The contention of the Learned counsel Shri Bhahuguna is that since 1991 already a number of reports have been lodged under Section 154 CRPC which ultimately culminated in the trial of the applicant before the Criminal Court, the departmental action in such an event is not justified before the conclusion of the afore-said contemplated Criminal trial. The reliance has been placed by the Learned Counsel on the case of Kusheshwar Dubey Vs Bharat Coking Coal Ltd. reported in 1988 SC P.2118. We

have perused that authority where the Hon'ble Supreme Court has laid down that no strait-jacket formula can be laid down where in which cases the departmental action could not be held simultaneously along with the Criminal trial, it shall depend on particular circumstance of each case.

3. We have gone through the averments made in the Original application and the report lodged in 1991 are still under investigation. After investigation the CBI may either submit report under Section 161 Cr PC or submit charge under Section 171 of the Cr PC. After the submission of the chargesheet in the Criminal Court only it can be said that Criminal trial has commenced against the applicant. This is not the case here.

4. In view of this fact as no criminal trial is pending against the applicant, this application is totally premature in the sense that the departmental action has been taken by the disciplinary authority in its right vested under CCS (CCA) Rules, 1965 as applicable in the present case.


5. The application, therefore, is dismissed as premature at the admission stage itself as not making out any prime facie case. However, the applicant if so advised can assail his grievance after ~~after~~ commencement

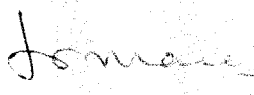
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of the Criminal trial against him even on
the grounds taken in this application.

Cost on parties.


(B.K. SINGH)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)

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