

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

12

O.A. No. 645 of 1996

New Delhi, dated this the 5th November 1996

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Nirmal Singh,
C/o Shri G.K. Aggarwal, Advocate,
G-82, Ashok Vihar-I,
Delhi-110052. APPLICANT

(By Advocate: Shri G.K. Aggarwal)

VERSUS

1. Union of India through
the Secretary,
Ministry of Urban Affairs & Employment,
Nirman Bhawan,
New Delhi. RESPONDENTS
2. The Director General (Works),
C.P.W.D.,
Nirman Bhawan,
New Delhi. RESPONDENTS

(By Advocate: Mrs. S.R. Khan)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

Heard.

2. The applicant's contention is that the Departmental proceeding is not maintainable and is not open to the Respondents to take disciplinary action against him, because in terms of Notice dated 27.7.95 he rejoined duty within one week, and the entire period of absence has been regularised with arrears of leave salary and increments. He has also contended that if

(3)

the Respondents have subsequently cancelled the regularisation of his absence from duty as contended by them it is open to them to pass fresh orders in this regard in accordance with the Leave Rules, but not through Departmental Proceeding under CCS (CCA) Rules.

3. We note that in para 2 of the impugned Memo dated 12.12.95 the applicant has been called upon to file his written statement of defence.

4. Section 20 A.T. Act lays down that an application shall not ordinarily be admitted unless the Tribunal is satisfied that the applicant has availed of all the remedies available to him under the relevant service rules as to redressal of grievances. Manifestly the Departmental Proceedings initiated against the applicant is at the preliminary stage and the applicant has not exhausted the remedies available to him under rules. Under the circumstance we hold that any judicial interference by us at this stage, as prayed for by the applicant would be premature particularly in the background of a catena of judgments of the Hon'ble Supreme Court strenuously deprecating the practice of Courts/ Tribunals interdicting departmental proceedings at interlocutory stage. In the first instance he should file his written statement in which it is open to him to raise the contention referred to in para 1 above, if not already raised. In the event that he has not raised

✓

this contention as yet, liberty is given to him to do so within one month from the date of receipt of a copy of this judgment and on receipt of which the Respondents should examine the same and pass a detailed, speaking and reasoned order, under intimation to the applicant in accordance with law within two months from the date of its receipt.

5. This O.A. is disposed of accordingly in terms of the directions given in paragraph 4 above. Interim orders if any are vacated.

No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

S.R. Adige

(S.R. Adige)
Member (A)

/GK/