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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.2043/94
M.A.3487/94

New Delhi, This the 12th Day of October 1994

Hon'ble Shri Justice S.C.Mathur, Chairman

Hon'ble Shri P.T.Thiruvengadam, Member(A)

S/Shri

1. Kunwar Pal Singh S/o Hub Lal
2. Chand Pal Singh s/o Mukandi Lal
3. Hari Singh s/o Shri Ganga Ram
4. Jai Pal Singh s/o Om Prakash
5. Bhup Singh s/o A Prasad
6. Balbir Singh S/o Jai Singh
7. Kalicharan s/o Chana Singh
8. Chiranji Lal s/o Ramachander
9. Chokey Lal s/o Maharaj Singh
10. Rukam Pal s/o Maharaj Singh
11. Hub Lal s/o Ganga Ram
12. M P Singh s/o Budh Ram
13. R P Singh s/o Yudishtar Singh
14. Daya Ram s/o Jiva Ram
15. Tara Singh s/o Daya Ram
16. Udaibir Singh s/o Jai Ram
17. Amar Singh s/o Mangat Ram
18. Raghubir Singh s/o Mangal Singh
19. Jaswant Singh s/o Vidyaram
20. Khazan Singh s/o Chob Singh
21. Ram Dutt s/o Ganga Ram
22. Bhopal Singh s/o Rudhaya Prasad
23. Rama Pati Singh s/o Kalu
24. Suresh s/o Ram Singh
25. Bhoj Singh s/o Vasudev

...Applicants

All c/o Shri D N Goburdan, Advocate
30, Lawyers Chambers,
Supreme Court
New Delhi - 1.

By Shri D N Goburdhan, Advocate

Versus

Union of India

1. The General Manager
Northern Mariager
Baroda House
New Delhi-1
2. Chief Administrative Officer (Construction)
Northern Railways
Kashmere Gate
Delhi -6
3. Senior Personnel Officer
DRM Office
DRM Building
Northern Railways
New Delhi-1.
4. Chief Engineer (Hqrs)
BQRS(Special)
Baroda House
New Delhi -1

5. Assistant Engineer (PQRS)
Northern Railway
ORM Office
New Delhi -1.

..Respondents

O R D E R (Oral)

Hon'ble Shri Justice S.C.Mathur, Chairman

1. The applicants seek stay of the operation of the report of the enquiry officer submitted in the disciplinary proceedings initiated against them.
2. The applicants plea is that the enquiry officer did not examine the witnesses in the presence of the applicants and he has relied upon the witnesses' statements recorded in preliminary investigation. According to the learned counsel enquiry has been conducted in violation of statutory provisions.
3. When the matter came up first before a Double Bench on 11.10.94 the Bench raised the objection that the applicants were not entitled to approach this court at this stage when a final order in disciplinary proceedings has not been passed. The Bench invited the attention of the learned counsel to the Judgement of Their Lordships of Hon'ble Supreme Court in Union of India Vs Upender Singh reported in JT 1994(1) SC 658. After studying that case the learned counsel for the applicants submits that it has no application to the facts of the present case.
4. It was a case in which the Tribunal had interfered in disciplinary proceedings at an interlocutory stage. Hence Their Lordships of Hon'ble Supreme Court set aside the judgement of the Tribunal and observed in para 4 of the judgement as follows:-

"We must say, we are not little surprised at ^{the} course adopted by the Tribunal. In its order dated 10.9.92 this Court specifically drew attention to the observation in A.N. Saxena that the Tribunal ought not interfere at an interlocutory stage and yet the Tribunal chose to interfere on the basis of the material which has yet to be produced at the enquiry."

5. The learned counsel for the applicants tried to distinguish this authority on the ground that in this case the enquiry proceedings had not concluded while in the present case the enquiry proceedings have concluded and enquiry officer has already submitted report. This distinction does exist. However, the applicants have been given an opportunity to represent against the report of the enquiry officer which they have availed of. The applicants' objection has to yet be taken note of and considered by the disciplinary authority before passing final order. If the disciplinary authority agrees with the submissions of the applicants it may not proceed to pass an order of punishment. In that event the applicants will be left with no grievance. If however the disciplinary authority proceeds to impose punishment upon the applicants, they shall have the liberty to prefer appeal against that order before the Appellate Authority. Under section 20 of the Administrative Tribunal Act 1985 it is specifically enjoined upon the Tribunal not to entertain application if an alternative remedy exists and has not been exhausted. In the present case alternative remedy admittedly exists and therefore


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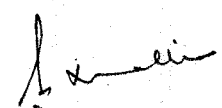
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there is no cause for the Tribunal to interfere at this stage. Entertainment of this application at this stage will amount to circumventing the provision of appeal provided by the statutory rules.

6. The learned counsel for the applicants states that a specific reference to the statutory rules which have been breached as alleged in the present application has not been mentioned in the representation made by the applicants to the disciplinary authority. The applicants may file a supplementary representation before the disciplinary authority.

7. In view of the above, the application is rejected. There shall be no order as to costs.


(P.T. THIRUVENGADAM)
Member (A)
12-10-94


(S.C. MATHUR)
Chairman
12-10-94