

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.OA-27/
T.A. No.

1988.

DATE OF DECISION 31.8.88

Shri Ved Prakash, Petitioner

Shri A.S. Ramachandra Rao, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri P.P. Khurana, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judicial).

The Hon'ble Mr. S.P. Mukerji, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *no*

S.P. Mukerji
(S.P. Mukerji)
Administrative Member

P.K. Kartha
(P.K. Kartha)
Vice Chairman (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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Regn.No.OA-27/88

Date of Decision: 31.8.88

Shri Ved Prakash

... Applicant.

Vs.

Union of India & Ors.

... Respondents.

For applicant.

... Shri A.S.Ramachandra Rao,
Advocate.

For respondents

... Shri P.P.Khurana,
Advocate.

CORAM: Hon'ble Shri P.K. Kartha, Vice Chairman(Judl.)
Hon'ble Shri S.P.Mukerji, Administrative Member.

JUDGEMENT

(Judgement of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman (Judicial).

The applicant who has been working as the Defence Estate Officer in the Defence Estate Office, under the Ministry of Defence, filed this application under Section 19 of the Administrative Tribunals Act praying that the impugned Memorandum dated 11th August, 1987 whereby it has been proposed to hold an enquiry against him under Rule 14 of the CCS(CCS) Rules, 1965, be quashed as also the charge and the statement of imputations enclosed with the impugned memorandum.

2. The respondents have filed their counter affidavit wherein they have raised a preliminary objection that it is pre-mature on the part of the applicant to approach the Tribunal to quash the charge-sheet. The applicant has no cause of grievance at this stage because no penalty has been imposed on him so far. The applicant has already submitted a written statement in his defence and has also opted for oral enquiry in accordance with the relevant rules. It has also been stated that the Enquiring Authority to be appointed by the Disciplinary Authority to hold the enquiry will give him reasonable opportunity to defend himself during the proceedings.

3. The applicant has prayed for the grant of an interim order to the effect that further proceedings pursuant to the impugned Memorandum dated 11th August, 1987 be stayed. The case had been listed on 19.8.88 for considering the admissibility of the application and the question of the grant of interim relief. We have heard the learned Counsel for both the parties at length and have carefully perused the records of the case. We are of the opinion that this application is not maintainable at the present stage and is liable to be dismissed in limine. The reasons for coming to this conclusion are set out hereinafter.

4. Section 19(1) of the Administrative Tribunals Act, 1985 provides that subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make ^{an} application to the Tribunal for the redressal of his grievance. Section 20(1) provides that a Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. In the present case the ^{D/} Departmental Enquiry which has been initiated has not culminated in the passing of an order of the Disciplinary Authority. The question arises whether the Tribunal should exercise its discretion and admit the application in such a case.

5. The cases arising before the Tribunal may be original applications filed under Section 19 or application of the Act. In regard to cases transferred from the Civil Courts which stood transferred under Section 29, the question of admissibility of the case at the threshold would not arise. The High Court or the Civil Court concerned had already considered ~~xxxx~~ that question. In respect of cases falling under this category, the question of

: 3 :

the ^o exhausting remedies available to the parties under the relevant service rules as to redressal of grievance may also ^{also} not be applicable.

10. In Sankari Pada Mukherjee Vs. Union of India and Others, ATR 1986/CAT 424, the Disciplinary proceedings which had not culminated in the passing of the ^{final} ~~order~~ by the Disciplinary Authority had been challenged before the Calcutta High Court which stood transferred to the Calcutta Bench of the Tribunal under Section 29 of the Administrative Tribunals Act, 1985. In that case the petitioner had challenged the validity of the notice to show cause as to why a major penalty should not be imposed. One of the contentions raised on behalf of the respondents was that it was premature on the part of the petitioners to have invoked the writ jurisdiction of the High Court under Article 226 of the Constitution when no major punishment had been awarded against him and he should not be allowed to ventilate his grievance, as the Disciplinary Authority had only issued a notice to show cause as to why major penalty should not be imposed. The substance of the contention ^{was} that the petition should be dismissed, giving liberty to the petitioner to move the Tribunal ^{an} ~~an~~ only when he ~~xxxxxx~~ received adverse order from his Disciplinary Authority. The Calcutta Bench of the Tribunal did not accept the aforesaid contention. In this context the Tribunal referred to the decision of the Calcutta High Court in Sunil Kumar Mukherjee Vs. State of West Bengal, 1977 Calcutta High Court Notes 1014, wherein the High Court had quashed the proceedings at the stage when a notice was issued to the petitioner to show cause as to why major penalty should not be imposed.

11. The aforesaid decision of the Calcutta Bench is of the Tribunal clearly distinguishable as it had before it a writ petition which had been transferred from the Calcutta High Court which had already admitted the petition.

12. In J.B.Chopra and Others Vs. Union of India and Ors. ATR 1987 (1) SC 46, the Supreme Court has held that the Administrative Tribunal being a substitute to the High Court has the necessary jurisdiction, power and authority to adjudicate upon all disputes relating to service matters. However, in view of the express provision of Section 19 and 20 of the Administrative Tribunals Act, we consider it necessary to impose self-restraint on the exercise of the jurisdiction and powers vested in us. The Service Rules governing Discipline and Appeal envisage speedy finalisation of the proceedings consistent with the principles of natural justice. Thereafter, the aggrieved government servant can avail of all the departmental remedies like appeal, review and revision as provided in the Rules. These elaborate provisions have been made to safeguard the legitimate interests of the government servants. These are not empty formalities. Many grievances, in fact, get reduced if not resolved through such mechanism without judicial intervention. If we assume jurisdiction before the final order is passed by the competent authorities, the rules relating to the conduct and discipline of the public services will be rendered nugatory.

13. While what is stated above is the general rule, in extraordinary situations the Tribunal may assume jurisdiction in order to prevent gross miscarriage of justice. In our opinion, no such extraordinary situation has arisen in the instant case, justifying our intervention at the present stage of the proceedings.

14. The practice of the Tribunal in regard to the

original applications filed under Section 19 of the Administrative Tribunals Act is not to ordinarily admit them unless the person concerned is shown to have been aggrieved by a final order pertaining to service matter and unless he had exhausted departmental remedies available to him.

15. In this context reference may be made to the decision of the Principal Bench of the Tribunal presided over by the Chairman in Arun Kumar Jain Vs. Union of India and Others, ATR 1986/CAT 108. In that case, the applicant had not exhausted all the remedies available to him under the CCS (CCA) Rules. Referring to Section 20 of the Administrative Tribunals Act, it was observed that the Tribunal did not consider that there were any circumstances which would justify invoking the jurisdiction vested in the Tribunal without requiring the petitioner to first exhaust the remedy available to him under the Service Rules. The aforesaid view has been followed in numerous other decisions of the Tribunal.*

16. We do not consider that the facts and circumstances of the present case before us would justify invoking the jurisdiction vested in us at this stage. It will, however, be open to the applicant to invoke the jurisdiction of the Tribunal after the departmental proceedings have concluded and any order prejudicial has been passed by the authorities concerned and after exhausting the departmental remedies available under the relevant service rules. The application

*1. ATR 1986/CAT 224;
2. ATR 1986/CAT 317;
3. ATR 1986/CAT 398;
4. ATR 1987(1) CAT 246;
5. ATR 1987(2) CAT 595;
6. 1986(1) ATC 488;
7. 1987(2) ATC 28; and
8. 1987(2) ATR 657.

13
: 6 :

is, therefore, rejected in limine under Section 19(3) of the Administrative Tribunals Act.


31.8.88
(S.P. Mukerji)

Administrative Member


31/8/88
(P.K. Kartha)
Vice Chairman (Judl.)