

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.210/00152/2020

Dated this Thursday, the 19th day of March, 2020

**CORAM : DR. BHAGWAN SAHAI, MEMBER (A)
RAVINDER KAUR, MEMBER (J)**

Nitin Ramchandra Tandel, Aged 52 years,
resident of 6/232, 3rd Floor, Macchimar Nagar, College Road,
Mahim (West), Mumbai 400 016.
Mob. No.7021794923, Email Id: Nil,
Office Address : Assistant Director of Postal Service (A&V),
Foreign Post Office, Mumbai 400 001. - Applicant
(By Advocate Shri C.K.Bhanoji proxy counsel
for Shri R.K.Mendadkar)

Versus

1. Union of India through its Secretary,
Ministry of Communications and Information Technology
(India), Having its Office at Sanchar Bhavan, New Delhi 110001.
2. Assistant Director of Postal Service (A&V),
Foreign Post Office, Mumbai 400 001.
3. Inquiry Officer, Foreign Post Office, Mumbai,
ASP, EPPC, Parel, Mumbai – 12. - Respondents
(By Advocate Shri M.N.Mulla proxy counsel
for Shri A.M.Sethna)

Order reserved on 28.02.2020

Order pronounced on 19.03.2020

ORDER

Per : Dr. Bhagwan Sahai, Member (A)

This OA has been filed by Shri Nitin Ramchandra Tandel, resident of 6/232, 3rd Floor, Macchimar Nagar, College Road, Mahim (West), Mumbai on 11.02.2020. In this he seeks setting aside of daily order dated 27.01.2020 passed by Inquiry Officer rejecting his request to adjourn the hearing in the departmental proceedings initiated against him and the charge-sheet dated 09.08.2019 served on him by Assistant Director Postal Service, Foreign Post Office, Mumbai.

2. On 28.02.2020, for the applicant's counsel Shri R.K.Mendadkar, proxy counsel for Shri C.K.Banoji appeared and he was heard on admission of the OA. On behalf of the respondents, Shri M.N.Mulla, proxy counsel appeared for the respondents' counsel Shri A.M.Sethna and informed that Shri A.M.Sethna had been appointed to represent the case.

3. However, after hearing the applicant's proxy counsel and on scrutiny of the OA, the OA was reserved for orders on admission. We have perused the OA. The order dated 27.01.2020 (Annex A-1) under challenge is in fact a daily order of the Inquiry Officer passed during conducting of the inquiry proceedings against the applicant initiated by charge-sheet dated 09.08.2019 (Annex A-2). In the daily order it has been recorded that the applicant had already been given 79 days to appoint Defence Assistant but he had not nominated any Defence Assistant and the request of the applicant to nominate legal practitioner had already been considered and rejected by the Disciplinary Authority vide letter dated 30.12.2019, which had already been brought to the notice of the applicant on 03.01.2020. Therefore, the applicant's request for adjourning the hearing was rejected.

4. In fact that the daily order has been signed by the Inquiry Officer, Presenting Officer and the applicant himself (Charged Officer). These facts revealed that this daily order passed during conducting of inquiry by the Inquiry Officer is only an order informing the applicant about rejection of his request by the Disciplinary Authority to nominate a legal practitioner. Thus, this is not an order passed by the Inquiry Officer, rejection of the applicant's request was actually by the

Disciplinary Authority which is also not a final order and even has not been challenged in the OA.

5. After issuing of the charge-sheet dated 09.08.2019 to the applicant, the Disciplinary Authority has ordered conducting of inquiry and appointed the Inquiry Officer, who thereafter has been conducting the inquiry. The inquiry proceedings have not yet been completed and report of the Inquiry Officer is not yet available. This clearly shows that the orders of the Inquiry Officer and the Disciplinary Authority mentioned above are only orders at intermediate stages of the inquiry proceedings and they do not amount to any final decision on the disciplinary proceedings. In case the applicant is aggrieved of the order of the Disciplinary Authority rejecting his request for engaging a Legal Practitioner, he should have approached to the Disciplinary Authority for further orders. In case his request is not accepted, he can raise this issue as a ground in his defence to be submitted by him when the report of the inquiry would be made available to him. Thereafter also the applicant can raise this grievance ^{which} which availing of statutory remedies against the likely orders of the Disciplinary Authority.

6. The second order under challenge in the OA is the charge-sheet issued to the applicant dated 09.08.2019, which only directed him to submit within 15 days of receipt of the charge-sheet, his written statement of defence and to state whether he desired to be heard in person. Thus, issuing of the charge memo is only initiation of the disciplinary proceedings and it clearly provided an opportunity to the applicant for submitting his defence statement. Thus, mere initiation of the disciplinary proceedings cannot be challenged in the OA as the

Disciplinary Authority has not yet been able to make up his mind about final order to be issued on conclusion of the disciplinary proceedings.

7. In view of the above facts of the case, the present OA cannot be entertained at the threshold of the disciplinary proceedings in absence of any final decision of the respondent authority. In this connection, we feel appropriate to cite the Apex Court decision dated 23.11.2012 in Civil Appeal No.8263/2012 (**Chairman, LIC of India & Ors. Vs. A. Masilamani**) which held that Court/Tribunal are not competent to quash the charge-sheet and related disciplinary proceedings before they are concluded.

8. In view of the above facts and position in law, we conclude that the present OA cannot be admitted at this premature stage for adjudication by the Tribunal. Hence, it deserves dismissal. The OA is dismissed at admission stage itself. No costs.

(Ravinder Kaur)
Member (Judicial)

(Dr. Bhagwan Sahai)
Member (Administrative)

kmg*

JD
20/03/2020