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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. QA 2525 of 1991

Date of decision 7.7.1992.

Yogesh Kumar Saini

Applicant

Shri V.P. Sharma

Counsel for the applicant

vs.

Union of India & Ors.

Respondents

Shri D.P. Malhotra

Counsel for the respondents

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The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J).

The Hon'ble Mr. I.P. Gupta, Member (A).

JUDGMENT

(Judgment of the Bench delivered by Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).)

As the matter is short, it is being finally disposed of on the request of both the counsel at the admission stage.

2. The applicant was appointed as L.D.C. in the year 1982 in the office of the respondents who was promoted on ad hoc basis to the post of U.D.C. on 12.6.89. He was served with the chargesheet dated 12.7.90 on the allegation that the applicant left the office earlier than the office hours and in his reply he also made a false statement. On 10.9.90, vide Annexure 'A', penalty of censure was imposed upon the applicant by the disciplinary authority after having given him show cause notice. taking a lenient view of the matter. The applicant, therefore, by filing this O.A. under Section 19 of the Administrative Tribunals Act of 1985 has prayed for the relief that the impugned order dated 10.9.90, the appellate order dated 15.10.90 and the chargesheet be quashed. As a consequential relief, the applicant has prayed for a direction to the respondents to consider the applicant for regular appointment as U.D.C. alongwith the persons who are junior than the applicant.

3. The respondents on notice appeared and filed their counter. In para 2 of their counter, they have taken the preliminary objection that the O.A. is premature and is not maintainable because the applicant has not exhausted the remedy of second appeal available to

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him under the E.S.I.C. (Staff Condition of Service) Regulations, 1959.

4. The applicant in his rejoinder has indicated that the objection is wrong. This is not denial of the contention of the respondents as preliminary objection in para 2 of their return. This O.A., therefore, deserves to be dismissed on this preliminary objection that the applicant without exhausting the remedy of second appeal has filed this O.A. The O.A. is thus dismissed on this preliminary objection because under Section 20 of the Administrative Tribunals Act, 1985, unless the departmental remedies are exhausted, no O.A. can be filed. Even otherwise, on merits, the applicant has no case. This Tribunal is not inclined to interfere in the finding of fact in a domestic enquiry where the conduct of the employee is judged, evaluated and punishment is imposed. On perusal of the impugned order, we find that the minor penalty of censure has been imposed by the disciplinary authority (Regional Director) on 10.9.90, after considering all the evidence and documents on record in which it has been shown that the applicant is a habitual absentee from the office before the office time is over. We have also perused the appellate order and it has dealt with the points raised by the applicant. This O.A. is bereft of merit also and, therefore, deserves to be dismissed with no order as to costs.

I.P. Gupta
(I.P. GUPTA) 7/7/92

MEMBER (A)

Ram Pal Singh
(RAM PAL SINGH)

VICE-CHAIRMAN (J)