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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

R.A.NO.211/2004 in  
O.A.NO.739/2004  
M.A.NO.1660/2004

New Delhi, this the 11th day of August, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN  
HON'BLE SHRI S.A.SINGH, MEMBER (A)

Sh. M.P.Sharma  
Deputy Superintendent of Police  
Central Bureau of Investigation  
Special Investigation Cell-I  
C-I Hutments, Dalhousie Road  
New Delhi. ... Applicant

Versus

Union of India & Ors.  
through:-

1. The Secretary  
Cabinet Secretariat  
North Block  
New Delhi.
2. The Director, C.B.I.  
Block No.3, CGO Complex  
New Delhi. .. Respondents

O R D E R (By Circulation)

Justice V.S. Aggarwal:-

The applicant had filed O.A.739/2004 seeking a direction to the respondents to drop the departmental proceedings and to quash and set aside the chargesheet of 5.11.99. The same had been contested. It was dismissed on 6.7.2004.

2. The applicant's grievance was that there were cross allegations. The matter was referred to the Department of Personnel and Training and thereafter to the Central Vigilance Commission. The applicant could not have been dealt with departmentally because a joint enquiry had to be held. It was held against two Inspectors.

*U. Aggarwal*

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3. Vide the order passed. this Tribunal recorded that it was a case of mistake. Once the mistake was detected, the same was corrected.

4. An application has been filed seeking review of the said order. The applicant's grievance is that this Tribunal did not give any finding on the issue that he was forced to depose against the two Inspectors and it has caused prejudice to him and he was forced to disclose his defence. Once the defence of the applicant is known, the departmental inquiry could not be continued.

5. It has further been asserted that this Tribunal has not given any finding that interested persons against whom the applicant has deposed, cannot be examined as witnesses. Furthermore, that order of holding joint inquiry was not in action of the correcting mistake but in fact, an illegality committed by the respondents.

6. Taking up the last plea, as to whether it is a mistake or any illegality, we have already pointed above that this Tribunal had concluded that it was a mistake on the part of the respondents which has been corrected. An error apparent on the face of the record, is one which can be detected without further probing. It is not so in the present case.

7. Reverting back to the main submission that the applicant has been forced, to depose against two Inspectors, his defence has been disclosed and,

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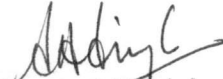
therefore, inquiry cannot be held. In our opinion, this question was premature to be raised. This has to be seen after evidence is recorded that any prejudice is caused or not. Therefore, no opinion had to be expressed while disposing of the OA. Suffice to say that it is not the rule of law that if defence is disclosed, no inquiry can be held. Further opinion, <sup>for eulke side</sup> in this regard, would be embarrassing. As already referred to above, the question of prejudice has to be seen when the witnesses are examined.

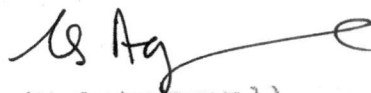
8. Lastly, it has been pointed that during the course of arguments, it has been urged that interested persons cannot be examined as witnesses against the applicant. Once again it is premature to state because the witnesses have yet to be examined and, therefore, no opinion had to be expressed.

9. On totality of facts, we find that there is no error apparent on the face of record. Review Application must fail and is accordingly dismissed in circulation.

M.A.No.1660/2004:

This MA has been filed for issuing appropriate directions stating that a Review Application has been filed. Meanwhile the departmental inquiry is proceeding and directions should be issued to restrain the respondents from continuing the same. Since the Review Application is being dismissed, the present MA which has been put up today must also fail and is dismissed.

  
(S.A. Singh)  
Member (A)

  
(V.S. Aggarwal)  
Chairman