CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH.

O.A. NO. 1508/92

New Delhi this the 26th day of October, 1994.

Shri N.V. Krishnan, Vice Chairman(A).

Smt. Lakshmi Swaminathan, Member(J).

J.L. Jain,
S/o Shri Sunderlal Jain,
SC-6, Basant Lane,
New Delhi. ...Petitioner.

By Advocate Shri J.K. Bali.

Versus

1. Union of India through
Secretary,
Ministry of Railways,
Rail Bhawan,
New Delhi.

2. Joint Secretary(Establishment),
Railway Board,
Rail Bhawan,
New Delhi 110 001.

3. General Manager,
Northern Railway,
Baroda House,
New Delhi 110 001.

4. Commissioner for Departmental Enquiry,
(Shri S.K. Roy),
Central Vigilance Commission,
Jam Nagar, Akbar Road,
New Delhi 110 011. ...Respondents

By Advocate Shri R.L. Dhawan

O R D E R

By Shri N.V. Krishnan

The applicant is FA & CAO in the Northern Railway. A disciplinary proceeding has been initiated against him on 22.2.1989 by the issue of a memorandum of charges. That memorandum was challenged by the applicant in OA.649/89. That departmental enquiry was continuing. In the departmental enquiry, an exparte order was passed on 18.5.92 which is impugned in the OA. Due to the absence of the applicant on that date (ie.18.5.92) and for the reasons mentioned by

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the Enquiry Officer in his order, proceedings were taken up exparte. Ex S-1 document was taken on record. The Presenting Officer did not produce and examine any prosecution witness. Therefore, the Enquiry Officer stated that the case was concluded. This order is impugned in the OA.

The prayers in the OA are as follows:-

(i) That the Respondent No.4 may be directed to set aside his order dated 18.5.92 for holding ex-parte enquiry.

(ii) That the Respondent No.4 may also be directed to allow the Applicant to cross examine the author/producer of documents produced by the Presenting Officer.

2. When the application came for admission on 5.6.92 direction was given to the respondents not to proceed with the enquiry. That order is still continuing.

3. In the meanwhile, OA.No.649/89 filed by the applicant against the memorandum of charges dated 22.2.1989 was dismissed by an order dated 24.3.94 to which one of us (i.e. Shri N.V.Krishnan) was a party. There was also a direction to dispose of the disciplinary enquiry expeditiously, which was given without knowledge that the proceedings have been stayed in the present OA.

4. When the OA came up for final hearing, we wanted the learned counsel for the applicant to clarify how the present OA is maintainable as it is in respect of an interlocutory order. The learned counsel for the applicant submitted

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that even if it be so, the OA may not be dismissed for, amendments have been sought to be made in the OA raising important issues for which purposes a number of MAs/MPs have been filed.

5. The learned counsel for the respondents contended that OA.No.649/89 has been dismissed. This OA is not maintainable. The applicant has suppressed the fact that OA.649/89 impugning the charge sheet was pending. It is also alleged that the applicant filed MP.1460/92 in OA.649/89 to stay the proceedings in the DE which were to commence on 18.5.92 but this was dismissed. This fact has also been suppressed. The OA is not maintainable as OA.649/89 challenging the charge sheet has already been filed. The respondents prayed for vacation of the interim order issued in this OA and that the respondents should be permitted to conclude the enquiry proceedings by passing a suitable final order. He, therefore, requested that the OA should be dismissed. He also submitted that the applicant was resorting to delaying tactics with a view to ensuring that he reached the age of superannuation before the disciplinary proceedings were completed, so that, when once he is retired, no penalty mentioned in the CCS(CCA) Rules could be imposed on him and that the disciplinary enquiry is dealt with, in accordance with the rules applicable to disciplinary proceedings continued after retirement.

6. We have heard the learned counsel for the parties. We are of the view that it would be useful to dispose of the MAs and MPs in the first instance before dealing with the main OA. This is being done in subsequent paragraphs.

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7. MP.2343/92

This was filed by the applicant on 6.8.1992. The applicant has sought to place on record the orders dated 16.2.1990, 13.9.1991, 24.2.1992, 9.3.1992 and 18.5.1992 (documents M-1 to M-5 respectively) of the Enquiry Officer in the pending disciplinary proceedings. M-5 is already filed as the impugned order. The other documents are filed to show that the applicant has been regular in attending the proceedings and that there was no justification to pass the impugned order dated 18.5.1992 that proceedings will be taken exparte. The respondents have filed a reply giving a calendar of dates to show that the order dated 18.5.92 of the Enquiry Officer is proper. The MP is, therefore, opposed by them.

8. We have heard the parties. We are of the view that the documents sought to be produced by the applicant are relevant for the disposal of the OA and, therefore, MP 2243/92 is allowed. The documents M-1 to M-5 are taken on record.

9. MP.3285/92

The applicant has filed MP.3285/92 on 21.10.92 The prayer is that OA.649/89 in which the memo of charges has been assailed and the present OA may be considered and decided in the light of the following developments.

(i) Soon after the disciplinary proceedings commenced, the applicant was compulsory retired under Rule 2046-H of the Indian Railway Establishment Code by the order dated 13.3.1989. He was, therefore, informed

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that the disciplinary proceeding initiated against him by the memo dated 22.2.1989 are continued against him in terms of Rule 2308 of the Establishment Code (Vol.II) after his retirement.

(ii) The order of compulsory retirement was quashed by this Tribunal on 6.9.1991 in O.A. 650/89 (Annexure-2 to the O.A.). The order of the Tribunal has been maintained by the Supreme Court also.

(iii) In this background, it is contended that the proceedings continued under Rule 2308 while he was a pensioner, cannot continue now after the order of compulsory retirement has been quashed and he has become a regular serving Government servant.

10. Respondents have opposed the MP in their reply dated 10.6.93.

11. The applicant has filed M.P. 1652/94 on 19.5.94 to take on record his belated rejoinder to the respondents reply to MP 3285/92.

12. As a practice, we do not permit a rejoinder to an MP. The MP is heard as soon as a reply is filed and disposed of. Hence, we reject the MP 1652/94 seeking to file a rejoinder.

13. MP 3285/92 has become infructuous in respect of O.A. 649/89 which has already been disposed of on 24.3.1994. In so far as disposal of the present O.A. is concerned, the above facts would appear to have no relevance because these have nothing to do with the prayer made in the O.A. That apart, another MA has since been filed for an amendment of the O.A. itself on similar grounds. Therefore, MP 3285/92 is dismissed.

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M.A. 1415/94.

14. The applicant has filed MA.1415/94 on 15.4.94 for an amendment of the present OA. The MA seeks to add two new prayers for which purpose, amendments to the facts of the case and grounds are also sought to be made. The new prayers are:-

(i) It be declared that the charge-sheet dated 22.2.1989 cannot be proceeded with after the premature retirement of the applicant on 13.3.89 and

(ii) It be declared that Rule 2308/RII cannot be applied to a Railway employee retired prematurely.

15. The MA has been opposed by the respondents.

16. We shall consider the MA in detail later.

M.A.1692/94.

17. The applicant has filed this MA on 7.6.94. This is for continuation of the interim order. On the submission of Shri J.K. Bali, learned counsel for the applicant, that he has recently been engaged in this case, the interim orders are still continuing. Therefore, this MA has become infructuous.

M.A. 2040/94.

18. The prayer made was that O.A. 649/89 may also be put up along with O.A. 1508/92. In terms of the procedure rules, this M.A. was heard by the Hon'ble Chairman who allowed it on 5.8.1994 and directed the Registry to club this O.A. with O.A. 649/89.

19. We do not find any need to refer to the records of O.A. 649/89 - We have on record a copy of the order passed dismissing that O.A. which is sufficient for the disposal of this O.A. Hence, no further action is needed.

M.A. 2266/94.

20. This M.A. is to place on record in this O.A. a copy of the SLP (C) No. 9390/91 of 1994 filed by the applicant in the Supreme Court against the judgement of this Tribunal dated 8.2.94/ 6.4.93 in M.A. 195/94 and O.A. 147/90. The respondents filed a counter to the SLP and a rejoinder was also filed. The applicant seeks to place copies of all these documents in this O.A. for a proper disposal of the O.A.

21. This M.A. has been opposed by the respondents.

22. We have seen the M.A. It is stated that a third O.A. 147/90 filed by the applicant challenging another charge-sheet dated 10.11.1989 was dismissed as infructuous on 6.9.1993 because the respondents had issued an order on 16.10.1993 withdrawing that charge-sheet. However, subsequently, a fresh charge-sheet on the same charges was issued on 2.12.1993 and an enquiry was commenced de-novo. Against this illegal action, the applicant approached the Supreme Court in SLP (C) No. 9390-91 of 1994 (Annexure-I to the M.A.) in respect of which notice was issued to the respondents who also filed a reply thereto (Annexure-2 to the M.A.). A rejoinder was also filed (Annexure-3 to the M.A.).

23. The reasons why all these annexures (which are the pleadings in the SLP) are sought to be produced have been stated by the applicant in the M.A. as follows:

"That certain important aspects of charge-sheet dated 22.2.1989 (O.A. 649/89) and charge-sheet dated 10.11.1989 (O.A. 147/90) have been dealt with in the pleadings. Although the applicant's aforesaid SLP has been dismissed on 18.8.1994, the applicants submit that many vital admissions made by the respondents in their counter affidavit will have an important bearing on O.A. 1508/92 and will facilitate adjudication of issues involved in the said O.A."

24. We have considered this ground. We notice that O.A. 649/89 and O.A. 147/90 involved challenges to charge-sheets dated 22.2.1989 and 10.11.1989 respectively. We do not see how the pleadings in the SLP proceedings which challenged the initiation of a fresh proceeding on 2.12.1993 can be relevant to the present O.A. where the order impugned is only the interlocutory order dated 18.5.1992. In the circumstance, we find no merit in the M.A. It is dismissed.

25. We now come back to M.A. 1415/94 which has been held over for decision. As mentioned in para 14, the applicant seeks an amendment of the O.A. with a view to seeking two new declarations. In this regard, we wanted the learned counsel for the applicant to argue the following issues:

(i) Whether the amendments can be permitted if it alters the character of the Original Application.

(ii) Whether the amendments sought are not barred by the principles of constructive res judicata as these amendments should have been sought in O.A. 649/88 wherein the memorandum of charges dated 22.2.1989 weas directly challenged.

26. We have heard the learned counsel for the applicant at length. He has relied on a number of authorities in support of his contention that this M.A. should be allowed and the O.A. as amended should be heard for final disposal.

27. After carefully considering the arguments of the learned counsel we have reached the conclusion that M.A. 1415/94 is not maintainable for a number of reasons and, therefore, it deserves to be dismissed. We shall now set out our reasons in subsequent paragraphs examining the authorities relied on by the learned counsel for the applicant.

28. It is pointed out that the principles for allowing amendments are well known. Amendment of the O.A. should be permitted if it is necessary for the purpose of determining the real question in controversy between the parties, unless the amendments result in injustice to the opposite party. The amendments may be needed to avoid multiplicity of proceedings. It should also be allowed if in the original plaint or petition some fact was inadvertently omitted to be stated, though it is ~~natural~~ material. These are the ratios of the decisions in,

(i) Ramji Lal Mohinder Kumar Vs. Smt. Naresh Kumari, AIR 1984 (Delhi) 95.

(ii) Rogubir Vs. Jacimto, AIR 1971 Goa Daman and Diu 36.

(iii) South India Corporation Vs. S.T. Corporation, AIR 1970 Kerala 138.

29. These principles are enshrined in the Code of Civil Procedure. The only issue is whether they apply to the amendments sought by the present M.A. In order to avoid multiplicity of proceedings, the present O.A. itself should not have been filed, for O.A. 649/89 was pending, where the charge sheet dated 22.2.1989 itself was challenged. The grievance of the applicant, being in respect of a subsequent development in the D.E. initiated on that charge sheet, the applicant should have properly sought amendment of that O.A. That is equally applicable to the amendments sought by the M.A. To avoid multiplicity of proceedings, this M.A. should have been filed in O.A. 649/89. Secondly, if the subject matter of the M.A. is related to the issue involved in the O.A., it could be allowed. It is for this reason that we have allowed M.P. 2343/92 vide para 7 supra. In other words, if the amendment is necessary to decide the issue raised, it should be allowed. We are of the view that the relief sought in the O.A. can be decided without these amendments. In the last case (AIR 1970 Kerala138) V.R. Krishna Iyer (J)- as he then was- observed as follows:

> "..It is trite law that ordinarily "mere delay" is not a ground for refusing an amendment. As a general rule, however late the amendment is sought to be made, it should be allowed" except in cases such as where the amendment is not sought in good faith or is not necessary for the purpose of determining the real question in controversy between the parties, or the objection sought to be raised thereby is purely technical or useless and of no substance or where the amendment would introduce a totally different, new and

> inconsistent case, or would otherwise inflict serious prejudice to the opposite party which cannot be compensated for by costs. (I am not attempting to be exhaustive). Even where a fresh suit on the amended cause of action would be barred by limitation, an application for introducing that amendment would not be necessarily disallowed although it may be a factor to be taken into account in exercise of the discretion as to whether the amendment should be ordered or not...."

In our view these observations do not lend any support to the applicant. On the contrary, based on these propositions, the M.A. deserves to be dismissed.

30. Mohan Lal Vs. NDM Supply, Gurgaon (AIR 1969 SC 1267) is also referred to. It was held that the amendment in the plaint sought by the plaintiff to sue in his own name, consequent upon the objection raised that the suit initially filed in the name of unregistered joint family business is incompetent, ought to have been allowed. The Court laid down the following principles:

> "Rules of procedure are intended to be a handmaid to the administration of justice. A party cannot be refused just relief merely because of some mistake, negligence, inadvertence or even infraction of the rules of procedure. The Court always gives leave to amend the pleadings of a party, unless it is satisfied that the party applying was acting mala fide, or that by his blunder, he had caused injury to his opponent which may not be compensed for by an order of costs. However, negligent or careless may have been the first omission, and, however, late the proposed amendments, the amendment may be allowed if it can be made without injustice to the other side".

We do not see how this decision is relied upon to answer the issues raised by us. In any case, we are of the view that the spate of M.As filed in 1994 seem to be intended to delay the proceedings by trying to widen the scope of the O.A.

31. While on this issue, the applicant has also referred to the decisions in S.M. Banerjee Vs. Shri Krishna Aggarwal (AIR 1960 SC 368), Laxminarain Oil Mills Vs. Memraj (AIR 1969 Delhi 311), Kanmani Films Vs. C.K. Kutty (AIR 1969 Mysore 259), Mahant Prem Dass Chela Mahant Bhola Dass Vs. Jyoti Prasad (AIR 1971 Delhi 282). We have seen all these decisions and we do not consider them to be relevant for our purpose.

32. In so far as the question as to why the M.A. should not be rejected on the principle of constructive res judicata is concerned, the applicant has relied on the Supreme Court's decision in Amalgamated Coalfields Ltd. & Anr. Vs. Janapada Sabha Chhindwara & Ors. (AIR 1964 SC 1013). We have seen this judgement. We notice that the appellant was subjected to tax by the local body who was the respondent therein. In respect of an earlier year, the appellant's case was decided in AIR 1961 SC 964. One of the points sought to be raised therein was in regard to the validity of the increase in the rate of tax from 3 pies to 9 pies. Since this point had not been taken in the writ petition and relevant material was not on record, the Supreme Court refrained from expressing any opinion on it. On this basis, the respondents urged that the appeal of the appellant was barred by constructive res judicata. The Supreme Court noticed that the appeal was in respect of a tax proceeding for a subsequent

year and that the grounds in these proceedings are quite different from the grounds raised on the earlier occasion. Therefore, the Court observed as follows:

> "...The grounds now urged are entirely distinct and so, the decision of the High Court can be upheld only if the principle of constructive res judicata can be said to apply to writ petitions filed under Art. 32 or Art. 226. In our opinion, constructive res judicata which is a special and artificial form of res judicata enacted by S. 11 of the Civil Procedure Code should not generally be applied to writ petitions filed under Art. 32 or Art. 226. We would be reluctant to apply this principle to the present appeals all the more because we are dealing with cases where the impugned tax liability is for different years. In dismissing the appellants petitions on the ground of res judicata, the High Court has no doubt referred to Art. 141 under which the law declared by this Court is binding on all Courts within the territory of India. But when we are considering the question as to whether any law has been declared by this Court by implication, such implied declaration though binding, must be held to be subject to revision by this Court on a proper occasion where the point in question is directly and expressly raised by any party before this Court. Therefore, we are inclined to hold that the appellants cannot be precluded from raising the new contentions on which their challenge against the validity of the notices is based".

33. It is thus clear that the said observation was made in the special circumstances of that case. Further, that decision of the Apex Court was intended to clarify the provision of Article 141 of the Constitution. What the Court held was that a declaration in an earlier judgement, which is only by mere implication, may not be treated as a declaration of law for the purpose of Article 141 and that if the point is raised specifically later the Court would consider the question directly.

34. That ratio will not apply to the present case particularly when what is sought to be impugned by the amendment is the same charge sheet dated 22.2.1989 which was already the subject matter of O.A. 649/89 which was pending till March, 94. Further, all the facts on the basis of which the amendments are now sought to be made were known to the applicant long before O.A. 649/89 was disposed of. In the circumstance, we are of the view that in so far as this case is concerned, the principle of constructive res judicata would apply and the M.A. is hit by that consideration. Accordingly, it is dismissed.

35. The following decisions relied upon in support of the contention that the M.A. has to be allowed do not have any relevance and are mentioned only for the purpose of record:

(i) Chief of Army Staff Vs. Major Dharampal Kukrety (1985) 3 SCR 415.

(ii) Sarin Singh Rawat Vs. UOI (1988)7 ATC 806.

(iii) Rameshwar & Others. Vs. Jot Ram & Others (1976)1 SCR 847.

(iv) Dr. Maya Mukherji Vs. State of West Bengal and Ors. 1982(2) SLR 405.

(v) P.T. Thomas & Ors. Vs. U.O.I. (1991)18 ATC 9.

(vi) M. Sainulabdil & Ors. Vs. Chairman, ISRO, (1993) 24 ATC 899.

(vii) P.S. Gopala Pillai Vs. U.O.I. & Ors., 1993 (1) SLJ (CAT) 171.

36. For the detailed reasons given above, we are of the view that M.A. 1415/94 should be dismissed. We do so. Therefore, the judgement in S.P. Sharma Vs. Ministry of Railways, O.A. 4/93 decided on 13.8.93 a certified copy of which is filed, is of no avail as that judgement would have been relevant only if the amendments sought to be made are allowed.

37. That leaves for consideration only the merits of the O.A. Obviously the impugned order is only an interlocutory order in a disciplinary proceeding. We wanted the learned counsel to satisfy us as to how this O.A. can be maintained. The learned counsel for the applicant relies on the decisions of A.V.S. Reddy Vs. State of Andhra Pradesh & Ors., ATR 1980(1) CAT 271, B.K. Mishra Vs. Union of India, ATR 1988(1) CAT 454 and Tobby Nainan Vs. Union of India & Ors., ATR 1990(1) CAT 197 to contend that the Tribunal can entertain an application against an interlocutory order.

38. We have seen these judgements.

In AVS Reddy, it has been held that if a charge in a departmental proceeding is challenged on the ground of illegality or unconstitutionality an application before the Tribunal would lie. That does not require any argument. For, it is on that ground alone that O.A. 649/89 was heard on merits and disposed of because there was a challenge to the charge-sheet on the grounds of

illegality.

B.K. Mishra is a different case where the issue was whether the charge sheet should be quashed because of inordinate delay in commencing the proceedings. In other words, it is against the legality of the charge-sheet that was questioned.

In Tobby Nainan, the question was considered whether an application would lie in respect of a disciplinary proceeding where no final order had been passed. In that case, the charge-sheet dated 7.11.1988 whereby the disciplinary proceeding was initiated was assasiled. It was held that even though there was no final order, it would be open to the Tribunal to entertain an application with-out insisting on the applicant to wait till the final order was passed in the pending enquiry and till he exhausted the remedy available to him under the relevant service rules. There is no doubt that the charge-sheet itself can be assailed before this Tribunal as soon as it is issued on certain specific grounds i.e. though no final order has yet been passed. These are set out in the case of Union of India Vs. Upendra Singh (JT 1994 (1) SC 658) as follows:

> "In the case of charges framed in a disciplinary inquiry the Tribunal or Court can interfere only if on the charges framed (read with imputation or particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law....."

39. The learned counsel for the applicant relies on another observation of the Supreme Court in Upendra Singh's case (Supra). In order to emphasize that the Tribunal overstepped the limits of judicial review in that case, the Supreme Court referred to the parameters of judicial review laid down in H.B. Gandhi, Excise and Taxation Office-cum-Assessing Authority, Karnal and Ors. Vs. M/s Gopinathan Sons & Ors. (1992 Supp. 2 SCC 312) and noted the following observations made therein:

> "Judicial Review, it is trite, is not directed against a decision but is confined to the decision making process.xxxx"

Relying on this extract, the learned counsel for the applicant submits that the impugned order has been passed illegally and that, therefore, judicial review lies against it, even though it is not a final order.

40. We are unable to agree. In the context in which the aforesaid extract was reproduced by the Supreme Court, it is clear that it was not intended to convey that every interlocutory decision is subject to judicial review as it is a decision. The Supreme Court thought it necessary to reproduce the aforesasid extract after observing that the truth or otherwise of the charges is a matter for the disciplinary authority to go into and that even after the conclusion of the disciplinary proceedings, the Court or Tribunal have no jurisdiction to look into the truth of the charges or into correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be. It was

in this background that it was stated that the function of the Court was one of judicial review and then, Apex Court proceeded to reproduce the extracts of the judgement in H.B. Gandhi's case.

41. It is only necessary to add that in H.B. Gandhi's case, the respondent dealers were aggrieved by the order of the appellate authority declining to waive the requirement of payment of the sales tax assessed, for admitting their appeals. Instead of deciding this issue, the High Court of Punjab and Haryana proceeded to reappraise the merits of the assessment to hold that the sales of food articles were not eligible to tax. It is in that context that the Supreme Court made the observations reproduced in para 39 Supra.

42. That apart, there are definite observations of the Apex Court both in Upendra Singh and in Union of India & Ors. Vs. A.N. Saxena (JT 1992(2) SC 532) which deprecate interference by this Tribunal at an interlocutory stage of the disciplinary proceedings. Thus, in A.N. Saxena the Court observed:

> "In the first place, we cannot, but confess our astonishment at the impugned order passed by the Tribunal. In a case like this, the Tribunal, we feel, should have been very careful before granting stay in a disciplinary proceeding at the interlocutory stage....." (Para 6)

Similarly, in Upendra Singh, the Court observed:

"Now if a Court cannot interfere with the truth or correctness of the charges even in a proceeding against a final order, it is ununderstandable how that can be done by the Tribunal at the stage of framing charge".

43. In this connection, it is to be noted that even Rule 22 of the CCS (CCA) Rules, 1965 bars an appeal against an interlocutory order in a disciplinary proceeding. May be, in such circumstance, an application could be made under Rule 29 to the revising authority. However, such revision cannot be claimed as a matter of right. That being the case, it is undesirable to entertain applications against such interlocutory orders in disciplinary proceedings.

44. This matter has been considered by the Madras Bench in Barathapunian Vs. Union of India & Ors. (Madras) (ATR 1987(1)CAT 311). The applicant therein was aggrieved by the order passed by the disciplinary authority refusing him permission to engage a legal practitioner to conduct his case. The application was dismissed by the Tribunal for the following reasons:

"...It is no doubt true there is a discretion on the part of the disciplinary authority but that authority having exercised his discretion, propriety or otherwise of the exercise of the discretionary power cannot be challenged at this stage. In our view, if the discretionary power is not properly exercised and that has caused prejudice to the applicant, that could be taken note of, for challenging the final order that may be passed and in the event of such final order that could not be against the applicant (SLC) But, at this stage, it is not possible for the

Tribunal to interfere with the exercise of the discretionary power by the disciplinary authority.

There is another reason why, we should not entertain such application at the interlocutory stage before the final orders passed by the disciplinary authority. If the delinquent officer is allowed to come before the Tribunal at every interlocutory stage challenging the discretionary powers of either the inquiry officer or the disciplinary authority the disciplinary proceedings will get prolonged. In this case the applicant aggrieved by an order refusing permission to engage a legal practitioner has chosen to come before the Tribunal. At a later stage he may ask for certain documents and when they are not given may again approach the Tribunal with a request to have the proceedings stayed. Again the applicant may come at a later stage, when his request for examination of certain witnesses is refused. The result will be that at every stage the Tribunal's interference will be sought and the proceedings before the Inquiry Officer or the Disciplinary Authority get delayed as long as possible. If the proceeding before the Inquiry Officer or the Disciplinary Authority gets delayed, it is possible for the delinquent officer to come with an applicant for quashing the proceedings in view of the long pendency of the departmental proceedings. We had the experience of dealing with such applications in the recent past".

We respectfully agree with this decision.

45. In the present case, we notice that by the impugned order proceedings were held ex-parte in the absence of the applicant and the disciplinary proceedings were closed for writing the report. It is at that stage this O.A. was filed. We are of the view that no application lies to the Tribunal against that order. The applicant may challenge this alleged illegality only after the final order of the disciplinary authority is rendered.

46. In the circumstance, we find no merit in this O.A. Accordingly, it is dismissed. The interim order stands vacated.

(SMT. LAKSHMI SWAMINATHAN)
MEMBER(J)

26/10/94

(N.V. KRISHNAN)
VICE CHAIRMAN(A)

'SRD'