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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO. 2144/93

Decided on: 12.10.93.

Pradeep Kr. Sharma ... Applicant

Versus

Union of India through ... Respondents

Secretary, M/o: Defence,

New Delhi & Another.

CORAM:

HON'BLE MR. J.P.SHARMA, MEMBER(J).

HON'BLE MR. B.K.SINGH, MEMBER(A).

For the applicant ... Shri Shambu Nath,
Counsel.

JUDGMENT (ORAL)

(HON'BLE MR. J.P.SHARMA(J):

Heard Shri Shambu Nath. The applicant Shri P.K.Sharma was Chargeman Gr.II in Ordnance Equipment Factory, Hazratpur, Tundla (UP) and was served with a memo of chargesheet dated 20.9.86. Disciplinary enquiry proceeded against him under Rule 14 of the CCS(CCA) Rules, 1965. The disciplinary authority, General Manager, Ordnance Equipment Factory, Hazratpur by the order dated June 4, 1993 imposed the penalty of compulsory retirement from service which is one of the major penalties provided in Rule 11 of the CCS(CCA) Rules, 1965. Under Rule 23 of the aforesaid rules, an

appeal lies from such order to the higher authority mentioned in the schedule. In an explanation appended below rule 23, it is made clear that the expression 'Government servant' includes a person who has ceased to be in government service.

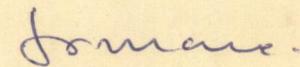
The contention of the learned counsel is that this is an exceptional case where the remedy of appeal was not availed of by the applicant because he desired to have an interim order. We fail to appreciate this contention. Under section 20 of the A.T. Act, 1985, the applicant has to exhaust the departmental remedy before approaching the Tribunal in this regard. Thus, this application is premature. Merely because the petitioner wants an interim order would not entitle him to a judicial review of the impugned order without exhausting the departmental remedy.

We, therefore, hold that the present application is premature and is dismissed as such, with the liberty to the applicant to assail the order after exhausting the departmental remedy prescribed under the service rules, as discussed above.



(B.K.SINGH)

MEMBER(A)



J.P.SHARMA

MEMBER(J)

pkk.