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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 2363 of 1993

8th Day of November, 1993

Shri J.P. Sharma, Hon'ble Member (J)

Shri B.K. Singh, Hon'ble Member (A)

Shri J.D. Gupta
68, New Rajdhani Enclave,
Vikas Marg,
Delhi

..... Applicant

By Advocate, Shri S.C. Jain.

Versus

1. Union of India, through
Director General of Works,
CPWD, Nirman Bhavan, New Delhi.
2. Shri O.P. Mishra,
Commissioner for Dept. Inquiries, CVC
Jamnagar House, Akbar Road,
New Delhi

..... Respondents

By: None

ORAL (ORDER)

Shri J.P. Sharma, Member (A)

The applicant is facing departmental enquiry proceedings by a memo issued by the Directorate General of Works, CPWD (Vigilance Unit) dated 23.3.93. There are certain articles of charge by which misconduct is alleged against the applicant having possessed assets beyond his normal means while working as Jr. Engineer/Asstt. Engineer during the period

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from 1980 to 1990.

2. The grievance of the applicant is that he requested the Disciplinary Authority that he wants Shri S.C. Jain, who is a legal practitioner, to be engaged as his defence assistant. This request was turned down by the order dated 18.10.93 with the observation that as the presenting officer is not a legal practitioner so his request cannot be accepted. However, his request can be considered for appointment of any other defence assistant who is not engaged in legal practice.

3. The learned counsel for the applicant has referred to the Item No. 20 under Rule 14 of CCS(CCA) Rules 1965. The Rule 14 (viii) (a) of the CCS(CCA) Rules 1965 provide inter alia that a delinquent government servant against whom disciplinary proceedings have been instituted for imposition of major penalty cannot engage a legal practitioner to present his case on his behalf before the inquiring authority unless the presenting officer appointed by the disciplinary authority is not a legal practitioner. Item 20 which relates to O.M. No. 11012/7/83-Est.(A) dated 23.7.84 gave a discretion to

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the disciplinary authority to consider the circumstances if any permission is required for engagement of a practising lawyer keeping in view the fact that the case is presented by a prosecuting officer of the C.B.I. The learned counsel for the applicant has also referred to an authority of Hon'ble Supreme Court reported in 1991 SC 1321 and also another authority of 1983 SC at page 109.

4. We have considered the aspects in the light of the precedents cited before us. Normally the Courts are not to interfere in the intermediary proceedings pending in the departmental enquiry which have already commenced before the enquiry officer. The nature of charge-sheet served upon the applicant is based on certain factual matters not requiring any interpretation of legal aspects. The applicant is only to face a charge of having been found in possession of assets disproportionate to the legal remuneration which he was in receipt from 1980 to 1990 while posted as Jr. Engineer-Asstt. Engineer in CRWD. We do not want to interfere at this stage. However, it shall be seen while the final order is passed. If the applicant is at all prejudiced then the matter can be adjudged and assessed against the final order, if any, and the

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applicant is advised for the judicial review of the same. The application is therefore dismissed with these observations.

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(B.K. Singh)
Member (A)

J. P. Sharma

(J.P. Sharma)
Member (J)

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