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Central Administrative Tribunal  
Principal Bench: New Delhi

O.A. No. 260/93

New Delhi this the 1st day of July 1998

Hon'ble Shri N. Sahu, Member (A)  
Hon'ble Dr. A. Vedavalli, Member (J)

Puran Mal  
S/o Shri Agan Lal,  
R/o RZ 3084, Raj Nagar II  
Palam Colony, New Delhi.

.....Applicant

(By Advocate: Shri V.P. Sharma)

Versus

1. Union of India, through  
The General Manager,  
Northern Railway, Baroda House,  
New Delhi.
2. The D.R. M.  
Delhi Division,  
Northern Railway,  
New Delhi.
3. The Assistant Personnel Officer(R)  
Northern Railway,  
Delhi Division, New Delhi.

.....Respondents

(By Advocate: Shri B.S. Jain)

ORDER (Oral)


By Hon'ble Shri N. Sahu, Member (A)

In this O.A. the applicant prays for declaring the impugned charge-sheet No. 230/Elect/TRD/13/5/88 dated 10.11.88 (Annexure A-1), Enquiry Report dated 13.1.93 as illegal. Interim orders were passed on 10.2.93 with a direction to the respondents not to pass any final orders in the disciplinary enquiry against the applicant. These interim orders were continuing when a Division Bench ordered stay of the disciplinary enquiry initiated against the applicant.

*Kanwar*

2. The applicant was proceeded against for allegedly obtaining employment by producing a forged casual labourer Ration Card No. 163026 showing the period of working between 25.11.76 to 1979. It is also stated by the learned counsel that the O.A. is pre-mature and not maintainable.

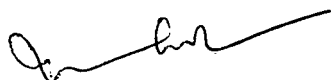
3. We agree with the learned counsel for the respondents. In the case of U.O.I. Vs. Upendra Singh JT 1994 (1) SC 658 the Hon'ble Supreme Court has held that the Tribunal cannot entertain an appeal at the stage of the charge sheet and interdict the disciplinary proceedings. It is held by the Apex Court that examining correctness of charges, particularly at the initial stage, is beyond the jurisdiction of the Tribunal's power of judicial review. The disciplinary rules are a self-contained code providing a complete framework for enquiry, show cause notice, passing of an order, appeal, revision and renewal and without going through these processes the applicant cannot rush to the Tribunal and challenge the charge-sheet unless the said charge sheet was issued in clear violation of a provision of law. Learned counsel for the applicant submits that the charge-sheet was issued on 10.11.88 by Assistant Personnel Officer (Grievances). Sh. Sharma's contention is that the applicant never worked under the said authority and, therefore, he is not competent to issue the charge-sheet. This aspect of the dispute has received an authoritative pronouncement from the Apex Court in the case of P. V. Srinivasa Sastry and others Vs. Controller & Auditor General and others, 1993 SCC (L&S) 206 = (1993)1 SCC 419 wherein their Lordships have held as under -



"It is well known that departmental proceeding consists of several stages; the initiation of the proceeding; the inquiry in respect of the charges framed and the final order which is passed after the conclusion of the inquiry. Article 311(1) guarantees that a member of the civil service shall not be dismissed or removed by an authority subordinate to that by which he was appointed. But Article 311(1) does not say that even the departmental proceeding must be initiated only by the appointing authority. However, it is open to the Union of India or a State Government to make any rule prescribing that even the proceeding against any delinquent officer shall be initiated by an officer not subordinate to the appointing authority. Any such rule shall not be inconsistent with Article 311 of the Constitution because it will amount to providing an additional safeguard or protection to the holder of a civil post. But in the absence of any such rule, this right or guarantee does not flow from Article 311 of the Constitution of India. It need not be pointed out that initiation of departmental proceeding per se does not visit the officer concerned with any civil consequences, and the framers of the Constitution did not consider it necessary to guarantee even that. At the same time it will not give right to authorities having the same rank as that of the officer against whom proceeding is to be initiated to take a decision whether any such proceeding should be initiated. In the absence of a rule, any superior authority who can be held to be the controlling authority can initiate such proceeding."

The Hon'ble Supreme Court also held in Steel Authority of India and another Vs. Dr. R.K. Diwakar, 1998 (1) SLJ 57 relying on the case of Director General, ESI & others Vs. T. Abdul Razak (1996) 4 SCC 708 that even if there was no delegation, the Controlling Officer can issue charge-sheet.

4. In view of the above we find no merit in this OA. The applicant can submit himself to the disciplinary authority and if he is aggrieved against the orders of the disciplinary authority can avail of the procedure for appeal and review and if he is still aggrieved of this ~~order~~ can come to this Court for redressal of grievances.

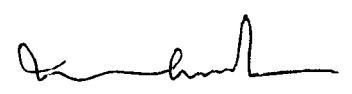


5. In the result the OA is dismissed. No

costs.



(DR. A. VEDAVALLI)  
Member (J)



(N. SAHU)  
Member (A)

cc.

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