

①

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

O.A. NO.590/93

Date of Decision : 17.3.93

Shri J.D. Gupta

...Applicant

Vs.

Union of India & Others

...Respondents

CORAM

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

Hon'ble Shri S.R. Adige, Member (A)

For the Applicant

...Shri S.C. Jain, Counsel

For the Respondents

...None

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER(J)

We have heard the learned counsel for the applicant at the admission stage. The applicant, at present, is employed as Assistant Engineer, CPWD, New Delhi and has been served with the memo of chargesheet dt.4.5.1992. He has also challenged the order dt.28.12.92 appointing Shri O.P. Mishra, Commissioner of Departmental Enquiries and Shri S.C. Yadav, Inspector, CBI as Presenting Officer.

2. The applicant has claimed the relief for quashing the memo of chargesheet dt.4.5.1992 and also the orders of appointment of the Enquiry Officer as well as of the Presenting Officer dt.28.12.1992.

3. The contention of the learned counsel for the applicant is that the appointing authority of the applicant

...2...

Is

(2)

is Engineer-in-Chief, CPWD and the authority competent to impose the penalty is Engineer-in-Chief, CPWD, New Delhi. The chargesheet issued by the memo dt.4.5.1992 is under the signature of Chief-Engineer, Vigilance, CPWD who had no jurisdiction to issue the said chargesheet as well as the other memo dt.28.12.1992 appointing the Enquiry Officer and the Presenting Officer. He, therefore, argued that the entire proceedings are abinitio, null and void and are liable to be quashed. The learned counsel for the applicant has placed reliance on Government of India publication issued in January, 1974 and referred to the Schedule to the Central Civil Services (Classification, Control and Appeal) Rules, 1965 Part-II at entry No.23 where for Central Engineering Service Class-II, the appointing authority is shown as Engineer-in-Chief, CPWD and the authority competent to impose the penalty is also the Engineer-in-Chief, CPWD. Placing reliance on the aforesaid publication, the learned counsel for the applicant argued that the memo of chargesheet is not sent by the appropriate authority. However, the Ministry of Home Affairs, New Delhi on 6.4.1966 has issued the following S.O. No.1149 which is quoted below :-

"S.O. 1149-In exercise of the powers conferred by the proviso to article 309 of the Constitution, read with rule 33 of the Central Civil Services, (Classification, Control and Appeal) Rules, 1965, the President hereby makes the following rules further to amend the said Rules, namely:-

1. These Rules may be called the Central Civil Services (Classification, Control and Appeal) (Amendment) Rules, 1966.

le

...3...

3

2. In the Schedule to the Central Civil Services (Classification, Control and Appeal) Rules, 1957 which is deemed to be the Schedule to the Central Civil Services (Classification, Control and Appeal) Rules, 1965, in Part II "Central Civil Services, Class II", under the entries in columns 3 and 4, relating to "Central Electrical Engineering Service, Class II" and "Central Engineering Service, Class II", the following entries shall be inserted, namely :-

3	4
"Additional Chief Engineer (Vigilance), (i) to (iv)" Central Public Works Department.	

(No.7/3/66-Ests(A).)
HARISH CHANDRA, Under Secy.

4. In view of the above facts and circumstances, we find no substance in the present application to admit the same under Section 19(3) of the Administrative Tribunals Act, 1985, which lays down as follows :-

"On receipt of an application under Sub Section (1), the Tribunal shall, if satisfied after such enquiry as may be deemed necessary, that the application is a fit case for adjudication or trial by, admit such application; but where the Tribunal is not so satisfied, it may summarily reject the application after recording its reasons."

5. The present application is, therefore, summarily rejected with liberty to the applicant to approach the Tribunal at proper time and to assail the final orders, if so advised. The application is, therefore, dismissed at the admission stage itself.

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

J.P. Sharma
(J.P. SHARMA)
MEMBER (J)