

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 776/91

DECIDED ON : 16.4.93

R. C. Mehtani

... Applicant

Vs.

Union of India & Ors.

... Respondents

CORAM :

THE HON'BLE MR. S. P. MUKHERJI, VICE CHAIRMAN (A)
THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri D. N. Vohra, Counsel for Applicant.

JUDGMENT

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

The applicant is working as Assistant Surveyor of Works (ASW for short) on ad-hoc basis since 31.1.1983. He has been promoted on regular basis as ASW vide letter dated 8.3.1990. But the regular promotion has been denied to the applicant vide letter of E-in-C Branch letter dated 6.5.1991 informing the applicant that his name shall be deemed to be in sealed cover. The applicant was served with a memorandum of chargesheet dated 27.2.1990 along with article of charges. The disciplinary authority vide order dated 4.1.1993 on the basis of findings arrived at by the inquiry officer in the departmental proceedings and after considering the representation of the applicant passed the punishment order of reduction by one stage in the scale of pay of Rs.2200-75-2800-EB-100-4000 for a period of two years without cumulative effect.

2. In the present application, the applicant has assailed the above order and prayed for the grant of the relief that the findings of the inquiry officer dated 7.12.1991 be set aside and further the impugned order dated 4.1.1993 be quashed. It

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is also prayed that the respondents be directed to confirm the petitioner in the rank of Assistant Surveyor Works Grade-I and restraining the respondents from reverting the applicant to the rank of Surveyor Assistant Grade-I with effect from January, 1993.

3. In the application, in para 6, the applicant has stated that "As the petitioner is being demoted immediately the petitioner has not exhausted the remedies available to him as if he done so the petition will become infructuous."

4. We have heard the learned counsel for the applicant on admission. Section 20 (1) of the Administrative Tribunals Act, 1985 lays down that "A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances." The contention of the learned counsel for the applicant is that he has not preferred an appeal because the order of the disciplinary authority is erroneous on the face of it and is based on no evidence against the applicant; that since the applicant cannot obtain a stay of the impugned order departmentally, he has to file the present application without existing the remedy of appeal. We think there is no scope for further arguments after the decision of the Full Bench judgment of the Hyderabad Bench of the Tribunal in the case of B. Parmeswara Rao vs. Divisional Engineer, Telecommunication, Eluru & Anr. Full Bench Judgments of CAT Vol.II 1989-91 p.250. The word 'ordinarily' limits the scope of consideration on admission of an application. The Tribunal of course has some sort of discretion in the matter but that discretion cannot be exercised in all cases and can only be exercised in

extraordinary situations. In the present case, the applicant vide impugned order has been imposed a penalty of reduction by one stage for two years without cumulative effect. It cannot be said to be a case where the applicant shall be out of job or that he cannot be compensated in terms of money if he succeeds in the O.A. Merely because the applicant apprehends some action on the impugned order, that will not by itself be a special situation to waive the remedy available to the ^{exhausting} applicant of ~~listing~~ departmental remedies. The departmental remedies have to be exhausted as a normal course. We do not find any substance in the argument of the learned counsel for the applicant that in this case the application be admitted without exhausting the statutory remedies available to the applicant.

5. We find no force in the present application for admission as the same is hit by the provisions of Section 20 of the Administrative Tribunals Act, 1985. The application is, therefore, dismissed at the admission stage itself, giving liberty to the applicant to seek his remedy as per extant rules in the competent forum after exhausting the statutory departmental ~~known~~ remedy.

J. P. Sharma
(J. P. Sharma) (6.4.93
Member (J)

S. P. Mukerji
S. P. Mukerji
(S. P. Mukerji)
Vice Chairman (A)
6.4.93

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