

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

MP 1446, 1447/93  
in OA 1016/93.

Date of decision: 15.10.1993

Shri L.S. Brar

...

Applicant

V/s

Union of India

...

Respondents

For the Applicant

...

Shri Sakesh Kumar, counsel.

For the Respondents

...

Shri Surender Adlakha,  
counsel.

O R D E R (ORAL)

The applicant has filed this O.A. impugning the order dated 23.5.91 of the Disciplinary Authority (Annexure 'C') by which the penalty of dismissal from service has been imposed on him. He has also filed an M.P. 1447/93 to amend the O.A. so as to impugne the Appellate Order dated 26.2.93 (Annexure 'H') by which the appeal against the dismissal order has been dismissed. That M.P. is still under consideration.

2. The Respondents have not filed a reply.

3. The matter came up before us on 28.9.93, when the ld. counsel for the applicant mentioned that an order has also been passed in a related contempt petition.

We then felt that, pe-rhaps, in the light of that order, this O.A. might have become infructuous. We, therefore,

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directed the counsel to produce a copy of the order issued in the CCP which has been done.

4. It is seen that earlier OA 878/92 was filed by the applicant against the Annexure 'C' order of dismissal dated 23.5.91. Judgement thereon was delivered on 20.11.92 (Annexure 'G'). Both counsel agreed that the reference in the judgement to the disciplinary authority's order dated 7.5.90 in para 1 is a mistake and it refers to the impugned order dated 23.5.1991 (Annexure 'C') in the present case. The applicant had filed an appeal which was pending when that O.A. was filed. Therefore, in the Annexure 'G' judgement dated 20.11.1992, this Tribunal directed the Appellate Authority to decide the appeal by a speaking order, after giving an opportunity of being heard.

5. The Appellate Authority then passed the order dt. 16.2.93 Annexure 'H'. The applicant filed CCP/88/93 on the ground that Appellate Authority did not comply with the direction given to him to hear the applicant before he passed the order. That CCP had been disposed of by the order dated 16.10.1993 by which the Appellate Authority's order dated 16.2.93 (Annexure 'H') has been quashed.

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He has further been directed to pass an order after giving an opportunity of personal hearing of the petitioner.

6. In the present O.A., the order dated 23.5.91 of the disciplinary authority has been impugned. The Annexure 'H' Appellate order dated 16.2.93 is also sought to be impugned by <sup>amending</sup> ~~sanctioning~~ the O.A. for which M.P. 1447 has been filed. That order has already been quashed by the order in the CCP.

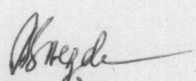
7. It is for this reason that we felt that this O.A. has become infructuous because the appeal against the order dated 23.5.91 of the disciplinary authority is again pending. That has to be disposed of in the light of the directions given in the order disposing of the CCP. In the circumstances, we find that this application is premature as the appeal is pending and, therefore, it is dismissed. We make it clear that it will not stand in the way of the applicant seeking such remedy as advised after the appeal is disposed of.

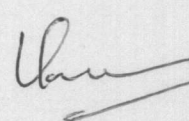
8. The ld. counsel for the applicant has drawn our attention to the earlier proceedings where an interim order has been passed. Now that the appeal

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is still pending, we direct that the applicant should not be evicted from the Government quarter, until the appeal is disposed of.

9. O.A. and M.Ps. are disposed of accordingly.

  
(B.S. Hegde)  
Member (J)

  
15.10.83  
(N.V. Krishnan)  
Vice-Chairman (A)