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Reserved

Central Administrative Tribunal Allahabad.
Registration T.A.No. 1657 of 1986(O.Suit No.621 of 1984)
Anant Kumar Yadav ... Applicant

Vs.

Union of India and 2 others ... Respondents.

Hon.D.S.Misra, AM
Hon.G.S.Sharma, JM

(By Hon.G.S.Sharma, JM)

This transferred application is an original suit and has been received u/s.19 of the Administrative Tribunals Act XIII of 1985 from the Court of 1 Addl.Mun-sif Shahjahanpur.

2. The relevant facts of this case in brief are that the applicant Anant Kumar Yadav (hereinafter referred to as the plaintiff) while employed as Examiner Grade I in the Ordnance Clothing Factory Shahjahanpur was served with charge sheets dated 9.3.1983 and 7.6.1983 in respect of certain misconduct. The plaintiff has challenged the validity of the disciplinary proceedings initiated against him on the basis of the said charge sheets on various grounds and it was prayed that a permanent injunction be issued against defendant nos. 2 and 3 till new inquiry officer is appointed. The suit was contested on behalf of the defendants, who have stated in their written statement that the proceedings initiated against the plaintiff were valid and in accordance with rules and his suit was not maintainable.

3. After the transfer of the case to this Tribunal the disciplinary proceedings initiated against the plaintiff concluded and he was awarded punishment on 21.2.1987 by the General Manager defendant no.2 reducing his pay to the minimum of his scale at Rs.950 for a period of 3 years. The plaintiff by moving an application on 19.3.87 sought an amendment in his plaint to challenge the validity of the aforesaid penalty and to get the order of penalty set aside. The amendment sought by the plaintiff was allowed and the defendants were given opportunity to file additional reply, which was duly filed.

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4. We, however, find from the record that the amendment sought by the plaintiff has not been incorporated in the plaint and as such, the same cannot be considered and on the own showing of the plaintiff his suit has become infructuous as the disciplinary proceedings sought to be restrained by him have already been concluded in the meantime. We further find that the plaintiff does not seem to have filed any appeal against the penalty imposed on him. We will, therefore, not like to consider his case on merits without proper amendment in the plaint.

5. The suit of the plaintiff thus having become infructuous, is hereby dismissed. He is ^{however, allowed} ~~is~~ directed to file a departmental appeal within a month from the date of the receipt of the copy of this order to the competent authority against the penalty imposed on him by the General Manager and the defendants are directed to entertain the said appeal, if filed, condoning the delay and to decide it on merits according to law. The appellate authority shall also consider whether the defendant no.2 was competent to initiate the disciplinary proceedings and impose the penalty under the rules. There will be no order as to costs.

Phoma
3.6.88
MEMBER (A)

S. S. Narayana
MEMBER (J)

Dated: 3rd June 1988

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