

(A3) (5)

Central Administrative Tribunal, Allahabad.

Registration O.A.No.33 of 1987

Vijay Bahadur Singh ... Applicant

Vs.

Union of India and others ... Respondents.

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

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

The applicant of this petition u/s.19 of the Administrative Tribunals Act XIII of 1985 (hereinafter referred to as the Act) while serving as Lower Division Clerk in the Ordnance Clothing Factory Shahjahanpur was granted Leave Travel Concession on his application dated 29.7.1982 and a sum of Rs.1337 was paid to him as advance. The applicant was thereafter served with a charge sheet dated 17.1.1984 for his alleged misconduct regarding the said LTC by the General Manager of the Factory. On^{ave} furnishing of the reply by the applicant, an inquiry officer was appointed and the inquiry proceedings were concluded on 25.7.1985. He made a number of representations challenging the jurisdiction of the disciplinary authority and the propriety of the disciplinary proceedings but when no heed was paid to him, he sent this petition by post on 17.12.1986 for a declaration that all the actions of the General Manager Clothing Factory Shahjahanpur are illegal, null and void and the applicant is entitled to get the LTC amount refunded with interest.

2. The applicant has submitted his arguments in writing by post stating that the General Manager Ordnance Clothing Factory Shahjahanpur is not competent to act as the disciplinary authority of the applicant and he has furnished the copy of the President's order dated 14.7.1987 to show that on the date the charge sheet was served on the applicant, the General Manager was not competent to act as a disciplinary authority. He has also cited a decision of this Bench in General Manager Ordnance Equipment Factory Kanpur VS. Supriya Roy (A.T.R.1988 (1)CAT-56) in which it was held that before January 2, 1987[^] the General Manager Ordnance Equipment Factory Kanpur was not competent to act as his disciplinary authority.

A3 2 6

3. The petition has been contested on behalf of the respondents and in the reply filed by the Works Manager (Admn.) Ordnance Clothing Factory Shahjahanpur it has been stated that the particulars of his journey furnished by the applicant after his availing the LTC were found incorrect on verification and the applicant had, in fact, not made the journey on the date and to the place mentioned by him. He was accordingly charge sheeted and in the inquiry conducted against the applicant he was found guilty and vide order dated 23.5.1987, he was retired from service by way of punishment and the General Manager had the delegated powers to act as the appointing and disciplinary authority of the applicant and the actions taken by the General Manager did not suffer for want of his jurisdiction or competence. It has also been stated in the reply that the applicant has not exhausted the alternative remedy of appeal against the punishment awarded to him and his petition is not maintainable.

4. We have very carefully considered the contentions of the parties. It appears from the reply filed on behalf of the respondents that the applicant was already retired from service on 23.5.87. The applicant thereafter did not care to amend his petition. We are, therefore, of the view that the petition has become infructuous and is not maintainable in the present form. Regarding the competence of the General Manager and the view taken by this Bench in the case of Supriya Roy (Supra), we are of the view that the matter is still subjudice before the Hon. Supreme Court and the operation of orders of the Allahabad Bench ^{based} ~~as~~ ^{passed} on the case of Supriya Roy (Supra) have been stayed by the said Hon. Court. The ratio of that case, therefore, cannot be applied to the case before us and on the basis of the material furnished before us, prima facie, it does not appear that the General Manager was not competent to act as disciplinary authority of the applicant.

5. The applicant should have challenged the correctness of the order of punishment passed against him by filing a departmental appeal but he does not seem to have done so. There appears to be one other reason which persuades us not to exercise our jurisdiction in this case against the charge sheet dated 17.1.1984 served

A3
3 (7)

on the applicant. The applicant should have challenged the validity of the charge sheet for want of jurisdiction within a year of its service on him and the petition having been filed in Dec.1986 is barred by limitation prescribed by S.21 of the Act. In this way, it does not appear to be a fit case for adjudication. The petition is accordingly dismissed at the admission stage.

[Signature]

MEMBER(J)

Dated:15th Nov.1988
kkb

[Signature]

MEMBER(A)