CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Original Application No. 426/1987.

Faujdar Applicant

versus

Union of India & Others Respondents.

Hon. Mr. D.K. Agrawal, Judl. Member.

This application under section 19 of the Administrative Tribunals Act, 1985 contains two prayers, firstly that the respondents be directed to restore the facility of passes and PTOs and secondly that the order of suspension dated 23.3.87 be directed to be withdrawn.

2. I have been deprived of the benefit of the address of the learned counsel for the applicant due to his absence without any intimation to the Tribunal. Therefore, I have heard the learned counsel for the respondents and perused the record. On perusal of the record, it is discovered that disciplinary proceedings were drawn against the applicant. The applicant was inflicted punishment by order dated 7.11.85 whereby an order was passed for withholding six passes and six PTOs. The applicant preferred an appeal which was decided by the appellate authority vide order dated 15.7.87. The applicant has submitted to the order of punishment i.e. the same has not been challenged. Therefore, until and unless the order of punishment is set aside, the passes and PTOs cannot be restored. There is

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yet another point involved in this case. The punishment was of such a nature which has already been undergone i.e. six set[s] of passes and PTOs due to the applicant in a particular yeqr or years, have been already denied to him. Therefore, its restoration is not possible unless it is said that he may be issued passes and PTOs in excess of passes and PTOs due in any particular year. In this manner, I am of the opinion that the Claim Petition in respect of the first prayer is not maintainable.

3. In respect of the second prayer i.e. the suspension order dated 23.3.87, a charge sheet has already been submitted against the applicant and the enquiry is pending. The applicant has filed O.A. No. 532 of 1988 which is pending in this Bench of the Tribunal in regard to the enquiry. Therefore, the suspension order dated 23.3.87 is impliedly the subject matter of the above said claim petition. It may also be mentioned that as alleged in para 20 of the Rejoinder, the applicant has already filed an appeal against the suspension order dated 23.3.87, which was pending on the date the present claim petition was filed. In this view of the matter I am of the opinion that the second prayer is also not maintainable.

4. In the result, I hold that the present Claim petition is not maintainable and is accordingly rejected without any order as to costs.

DK Agrawal
31.7.91.
Judl. Member.

Shakeel/ Allahabad Dated: 31.7.91