

Central Administrative Tribunal, Allahabad.

Registration O.A.No.1288 of 1988

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K.M.Lal

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Applicant

Vs.

Sr. Superintendent, Posts
and others

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Respondents.

Hon. Ajay Johri, AM
Hon. G.S. Sharma, JM

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

The applicant while working as Postal Assistant in the Faizabad Postal Division was served with charge sheets dated 7.6.88, 8.6.88 and 16.6.88 by Sr. Superintendent, Posts, Faizabad- respondent no.1. The applicant was also transferred from Faizabad to Hakimpur by the respondent no.1 on 7.6.88 without disclosing any reason. It is alleged that when the applicant did not get the copies of the documents demanded by him and suspected that the respondent no.1 was annoyed with him due to personal reasons, he represented to the Director of Postal Services for changing the disciplinary authority. His request was turned down by the Director by passing the single order dated 3.10.1988. The present petition was filed by the applicant on 8.11.1988 for changing the disciplinary authority as well as for setting aside the order dated 3.10.1988 passed by the Director with the allegations that soon after the rejection of his representation by the Director, the respondent no.1 in his capacity as disciplinary authority decided two disciplinary cases ex-parte on 5.10.88 and awarded the punishment of stoppage of his increments for 3 years and in the third case, he is likely to be dismissed from service. The applicant has also made certain allegations against the Director for rejecting his representation and it is alleged that the rejection order was procured by the respondent no.1 and the Director is in his hands and he gets the things done as he wants. The inquiry officer is also stated to be the man of the disciplinary authority and he is also under his obligation and will decide the remaining case against the applicant as desired by the respondent no.1.

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2. At the time of the hearing of this case the Bench was of the view that the disciplinary proceedings against the applicant are still pending and no order has been passed against him and this petition is not maintainable against any interim order made in connection with the disciplinary proceedings. Such view was taken by the Bench in another case filed by the same learned counsel and the petition was dismissed on the ground that it is not maintainable without a final order. The learned counsel for the applicant canvassed before us that unless the Tribunal intervenes, he is likely to be harassed by the disciplinary authority and it is a fit case in which the petition should be admitted. The contentions raised have been very carefully considered by us and we are of the view that the only reason alleged by the applicant for changing the disciplinary authority is that he is biased against the applicant. He has also made certain adverse remarks and allegations against the inquiry officer as well as against the Director who may be his appellate authority in case any adverse order is passed in the disciplinary case against him. No prayer has, however, been made for changing the inquiry officer or the appellate authority. We are of the view that the provisions of the A.T. Act as contained in sections 19, 20 and 21 contemplate that the Tribunal has to interfere only when an order or final order is passed and no petition u/s. 19 of the Act is maintainable against any interlocutory order.

3. This point had ^{also} cropped up before the Hyderabad Bench of the Tribunal in A.B.S. Reddy Vs. State of A.P. (1988) 7 A.T.C.-119. The Hyderabad Bench had adopted a middle course. It did not agree with the view that no petition could lie against an interlocutory order and had held that if there is any illegality in the charge or in the manner of conduct of the disciplinary inquiry and there is a violation of the quasi judicial obligation at any stage, then certiorari would be attracted and a writ could issue. It was further observed that if the applicant is able to show that the order and the charge framed are ultra vires and the constitutional provisions are in any manner violated, he could without doubt seek quashing of the said order. Even according to

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this view a petition under section 19 of the A.T. Act against an inter locutory order is maintainable only if there is any illegality in the charge or violation of any quasi judicial obligation at any stage. Except the bias, the applicant has no other ground for the change of the disciplinary authority and, in our opinion, his case does not fall in the category of the cases in which a petition may lie from the inter locutory orders.

4. The petition is accordingly dismissed. However, as a note of caution, we want to point out that the dismissal of this petition should not be taken by the respondents as the dismissal on merits and the applicant should be given adequate opportunity to defend himself in the disciplinary proceedings as provided under the law.

Sharma
MEMBER (J)

Dated: 15.12.1988
kkb

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MEMBER(A)