

Central Administrative Tribunal, Allahabad
Registration O.A.No.1291 of 1988

J.P.Jain ...

Applicant

Vs.

Sr. Superintendent of
Post Offices 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 posted as Postal Assistant in the Head Post Office, Faizabad was served with a charge sheet dated 18.6.1988 by the Sr. Post Master Faizabad for certain lapses amounting to misconduct. The applicant applied for certain copies of the documents for preparing his statement of defence but his request was turned down as the documents were considered irrelevant and on his moving another application only two documents were held to be relevant. The applicant approached the Director Postal Service by way of a representation for changing the disciplinary authority but his request was turned down by an order dated 3.10.88 Aggrieved by this, the applicant rushed to this Tribunal and has prayed that the disciplinary authority should be asked not to proceed with his case and in his place some other officer should be appointed as disciplinary authority and the order passed on 3.10.1988 by the Director of Postal Services be also set aside as it is non-speaking order and he be granted other consequential benefits.

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2. The learned counsel for the applicant was heard on the point of admission and his contention is that the order dated 3.10.1988 passed by the Director is a final order and the applicant could approach this Tribunal u/s.19 of the Act. We have very carefully considered the contentions raised before us and we are of the view that S.20(2) of the Act contemplates that a petition u/s.19 of the Act can lie only if a final order has been passed against the applicant and if no final order is passed, he has made an appeal or representation against the same and the same either remains unattended for a period of 6 months or is rejected. In our opinion, the term 'final order' has some more significance and this can be appreciated when we compare it with an interlocutory order. The orders passed during the course of the disciplinary proceedings are all interlocutory orders and only order passed after the termination of the disciplinary inquiry whether acquitting the delinquent or punishing him for the alleged misconduct can amount to a final order. Generally an appeal lies against all the orders of punishment to the next higher authority. If no appeal lies, a person can ^{also} make a representation to the next higher authority before approaching the Tribunal against such final order or inaction of any departmental authority. The request made by the applicant to the Director of Postal Services for changing the disciplinary authority was as a matter of fact, an application for change of the disciplinary authority and not a representation against any impugned order to the next

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higher authority contemplated by S.20(2) of the Act. The Director was well within his jurisdiction to allow or not to allow the application for the change of the disciplinary authority. The applicant did not approach the next higher authority against the order of the Director rejecting his application for change of the disciplinary authority, which was necessary, if a narrow view is taken that the Tribunal can be approached even against an interlocutory order after exhausting the departmental remedy.

3. We have, *prima-facie*, examined the worth of the allegations of the applicant. The charge against him is regarding his negligence or dereliction of duty and is likely to be proved only by documentary evidence. The applicant was allowed the inspection of the required documents and regarding his insistence that he should be given the copies of the required documents, we will not like to make further comments in this petition as the parties are likely to be prejudiced in the subsequent disciplinary proceedings. It will suffice to say that the apprehensions shown by the applicant do not call for any interference by the Tribunal during the course of the disciplinary proceedings against him and he has, *prima-facie*, made out no case for the admission of this petition of extra-ordinary nature.

4. The petition is dismissed at the admission stage.

MEMBER(J)

Dated: 28.11.1988
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MEMBER(A)

Bhagat Singh