

Central Administrative Tribunal, Allahabad.

Registration O.A.No. 701 of 1988

A.K.Sarkar

...

Applicant

Vs.

General Manager, Northern Railway
New Delhi and others

...

Respondents.

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

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

In this petition u/s.19 of the Administrative Tribunals Act XIII of 1985, the applicant has prayed that the charge sheet dated 3.4.1987 served on him for taking disciplinary proceedings against him in connection with specified misconduct and the order dated 10.3.88 made by the disciplinary authority appointing an inquiring authority for conducting the disciplinary proceedings be quashed with the allegation that the very basis of holding the inquiry on the strength of the unsigned statements of the witnesses recorded u/s.161 of the Code of Criminal Procedure during the investigation of the criminal case against the applicant is illegal and prohibited by S.162 of the said Code. We have carefully considered the contentions raised by the applicant's counsel before us at the time of admission and in our opinion, this petition is directed against interlocutory orders and not against a final order made in the disciplinary proceeding initiated against him and as such, is not maintainable. We further find unable to convince ourselves that there could be no disciplinary proceedings against the applicant on the basis of the unsigned statements of the witnesses recorded during the course of investigation in a criminal case. S.162 of the Cr.PC prohibits the use of statements of the witnesses recorded during the investigation for any purpose except to contradict the witness in Court. This limitation prescribed about the use of unsigned statements applies only to criminal trials of the offences in connection with which the statements are recorded at the stage of investigation and does not impose any general bar. We are, therefore, of the view that it is not a fit case for adjudication.

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2. The petition is accordingly dismissed at the admission stage.

Sharma

MEMBER(J)

Wm
7.7.88

MEMBER(A)

Dated 7th July 1988
kkb