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(i) The applicant was B.P.M. Hadha Mafi (Badausa) Banda. He was served with a memo of charges by the learned Superintendent. Posts Banda. (Respondent) vide his Memo No.L/G-15/Loose/80 dated 28-1-1986 under ~~rule~~ ^{but} Annexure A-1. On pages 15 to 17. An enquiry under rule 8 of E.D.A. conduct Rules was held ~~by~~ ^{but} a copy of enquiry report has not been supplied to the applicant. He is, therefore unable to append a copy of the same with this application. The Respondent awarded the applicant the punishment of Dismissal from services vide his Memo No.L/G-15 loose date 30-3-1988 copy at Annexure A-2 on pages 18 to 22.

(ii) For reasons stated in para 8 below the applicant has approached this Hon'ble Tribunal direct instead of exhausting the departmental challenge first.

Facts of the case.

(iii) Savings Bank Account no. 355973 standing at Badausa Sub Post Office, District Banda in the name of Shri Chunna Son of Shri Durga Prasad, with a closing balance of Rs. 28,00/- on its last date of transaction viz. 28/10/1973 was declared a silent account as per departmental rules. Shri Chunna requested his nephew the applicant to get the said account revived. Accordingly

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Court No.2

Central Administrative Tribunal, Allahabad.

Registration O.A.No.788 of 1988

Shyam Sundar Tripathi ... Applicant

Vs.

Sperintendent Posts, Banda ... Respondent.

Hon.D.S.Misra, AM

Hon.G.S.Sharma, JM

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

This petition u/s.19 of the Administrative Tribunals Act XIII of 1985 (hereinafter referred to as the Act) has been presented by the applicant against the order dated 30.3.1988 of his dismissal from service by way of punishment after holding the disciplinary proceedings against him. The applicant did not go in appeal before moving this petition and he has given 5 reasons in para 9 of his petition for not exhausting the departmental remedy. It is alleged in this ^{para 9} ~~petition~~ that the punishment of dismissal is not warranted considering his alleged guilt. The respondent did not supply the copy of the enquiry report to him which violates the provisions of Art.311(2) of the Constitution. The enquiry officer did not give him an opportunity of producing his defence before holding him guilty. The statements of the applicant and R.S.Singh were ignored and the impugned order was passed maliciously.

We have carefully considered the contentions raised on behalf of the applicant and find ourselves unable to agree with the same. Section 20(1) of the Act provides that the Tribunal shall not, ordinarily, admit an application unless it is satisfied that the applicant has availed of all the remedies available to him under the relevant service rules as to redressal of grievances. Undisputedly, the departmental appeal lies against the impugned order of dismissal. The departmental appellate authority has not only to see the evidence produced in the inquiry but has also to consider and examine the various legal questions involved in the case and there can be

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no presumption that the law points raised before the Tribunal shall not be considered or given due weight by the departmental authority when placed before it. Assuming for the sake of argument that the impugned order is illegal and void, the applicant had no reason to bypass the remedy of appeal as no interim relief can be granted to him by this Tribunal after a gap of ~~about~~ more than 3 months of his dismissal. The cause shown by the applicant for not exhausting the departmental remedies is, therefore, not sufficient and correct and we find no good ground to admit this petition in view of the specific provision of S.20(1) of the Act.

The petition is accordingly dismissed at the admission stage.

S. B. Narvekar

MEMBER (J)

B. S. B. Narvekar
8.7.88

MEMBER (A)

Dated: 8th July 1988
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