

(P.K.M)

Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 1221 of 1988

Chetan Prakash Mittal **Applicant.**
Versus
Union of India & others **Respondents.**

Hon'ble Justice K. Nath, V.C.
Hon'ble K.J. Raman, A.M.

(By Hon. Justice K. Nath, V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 is opposed at the stage of admission by a counter affidavit. The applicant made this application in person and has not engaged any Lawyer for the case. Sri K.C. Sinha is present for the respondents. We have gone through the record.

2. It appears that while the applicant was working as SO (Accounts) in the office of the Joint CDA (Funds) he was given a warning by letter dated 16.7.1985 by the Deputy CDA (Funds) on the allegation of abnormal delay in disposal of two letters of the CGDA, New Delhi. The applicant, however, returned the letter in original with some remarks, e.g. 'the penalty being time barred and without an opportunity'. The Dy. CDA again returned the letter containing the recorded warning with the remark that the applicant's returning the letter in original was in violation of the CCS (Conduct) Rules, 1964. The applicant, however, again returned the letter to the Dy. CDA. This transfer and return of letters appears to have been done once again and then ultimately the applicant made a representation through proper channel to the CGDA. According to para 10 of the application the representation was rejected, although allegedly it was got rejected by the CDA. The applicant made a direct representation to the CGDA by his letter dated 9.1.1986. It was in the context of these happenings that the disciplinary

enquiry was instituted against the applicant.

3. A charge-sheet dated 11.6.1986 (at page 74 of the paper book) was served upon him mentioning that the applicant had violated para 313 of the OM Part I by sending his representation dated 9.1.1986 directly to the CGDA, that he had used impolite language and that he had been refusing to receive official communications, which all constituted conduct of 'unbecoming of a Government servant' within the meaning of Rule 3(1)(iii) of the CCS (Conduct) Rules, 1964. The applicant then submitted a reply (at page 68). On a consideration of the reply the CDA passed the punishment order of censure on 6.8.1986. The applicant preferred an appeal; the appeal was dismissed by the order dated 12.2.1987 (at page 56). He preferred a review to the President of India. The review was dismissed on 23.2.1988 (at page 31).

4. With regard to charge of violation of para 313 of OM Part I, the applicant's case, as stated at page 5 of the application, seems to be that he had sent the appeal directly to the CGDA in accordance with Rule 26(2) of the CCS (CCA) Rules and not under para 313 of OM Part I. The contention is misconceived because what he describes to be an 'appeal' is in fact a 'representation', inasmuch as the appeal was against a recorded warning which is not a punishment, as contemplated under Rule 11 of the CCS (CCA) Rules, 1965. Rule 26(2) of the CCS (CCA) Rules, therefore, ^{does} _{not} apply. The proper course was to make a representation and that could be done through proper channel as had been done by him initially and there para 313 of OM Part I would come into operation.

5. In respect of the charge of using an impolite language the reply, according to the application, is that there is no standard of 'politeness'. In respect of the third charge, viz. refusing to receive the communications, there is no clear statement of the case in the application. The admitted case nevertheless is that he returned the recorded warning to the concerned officer more than once.

(S)
7
-: 3 :-

6. We have carefully gone through the impugned orders. His appellate and revisional orders (at pages 56 and 31 of the paper book) are speaking orders and the relevant features of the case had been considered. In the circumstances, there is no worth in the applicant's case so far as the punishment of censure is concerned. The applicant has also prayed for expunging the remarks recorded in column no.5 of the ACR for the year 1986. It is pointed out in the counter affidavit that those remarks are already subject matter of the separate Original Application No.1186 of 1986 pending before this Tribunal. That is not correct because although OA No. 1186/88 is against certain entries in the ACR for the year 1986; the case before us really concerns the entry made in column no.5 of the ACR for the year 1985, which has been erroneously typed in the relevant paragraph of the application to be the year 1986. At page 26 of the paper book, the entry given to the applicant against item no.5 of the ACR only mentions that the applicant had been reprimanded and had been given recorded warning for 'delay in finalisation of a case' by letter dated 16.7.1985. That is precisely the matter which ultimately led to the disciplinary enquiry and the punishment of censure, as discussed above. The upshot is that the entry sought to be expunged records no more than ~~then~~ that he had been given a recorded warning. That being true and admitted, there is no question of the entry to be expunged.

7. In view of above, the application is accordingly dismissed at the admission stage.

ASRATH

MEMBER (A).

R

VICE-CHAIRMAN.

Dated: July 30, 1990.

PG.