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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

Registration O.A. No. 858 of 1994

M.L. Kushwaha ... ... ... Applicant.

Versus

Union of India  
and others ... ... ... Respondents.

...  
( By Hon. Mr. Maharaj-Din, Member(J) )

This application has been preferred against the dismissal order dated 13.4.1994 and the relief is sought that the said order be quashed.

2. The applicant was working as 'Ticket Collector' in the Central Railway, Raza-ki-mandi, Agra. A departmental enquiry was instituted against the applicant upon which the disciplinary authority i.e. Assistant Commercial Manager, Central Railway, Jhansi imposed punishment of stoppage of increments of the applicant. The applicant preferred an appeal against the said order. The appellate Authority after having issued show cause notice and after having heard the applicant, passed the impugned order dated 13.4.1994 by which the punishment of stoppage of increments was enhanced to removal from service.

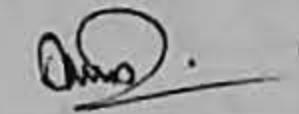
3. Heard the learned counsel for the applicant at admission stage and perused the documents annexed with the application. In para- 2 of the impugned order dated 13.4.1994 (Annexure- A 1), it is clearly written that <sup>under</sup> rules-18 & 19 of the Railway

Servant(Discipline and Appeal) Rules, 1968, an appeal against this order lies before the Senior Divisional Commercial Manager, Jhansi. The applicant, instead of preferring the appeal as provided under the rules, has approached this Tribunal. It shows that without exhausting the departmental remedy, this application has been preferred by the applicant. The learned counsel for the applicant has contended during the course of argument that the order of removal passed by the appellate authority (Annexure-A 1) shall be given effect to and the applicant would be removed from service, therefore, he has approached this Tribunal without exhausting the departmental remedies. The contention put forth by the learned counsel for the applicant does not stand reason nor convincing because the applicant could have made prayer before the appellate authority asking to restrain the respondents from giving effect to <sup>1</sup> of the removal order and the appellate authority is competent to pass such order as the case of the applicant has not been finally decided.

4. Having considered these facts ~~00000~~ and circumstances of the case, the application of the applicant is disposed of with the observation that it is pre-mature. The applicant is directed to prefer an appeal as provided under Rules, 18 & 19 of the Act <sup>2</sup> and <sup>and</sup> at once may make prayer for stay of operation

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of the removal from service before the appellate authority. ~~There will be no order as to costs.~~

  
Member (J)

Dated: 31.5.1994

(n.u.)