

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1300 OF 2003

ALLAHABAD THIS THE 16th DAY OF Nov 2007

HON'BLE DR. K. B. S. RAJAN, MEMBER-J
HON'BLE MR. K. S. MENON, MEMBER-A

Ved Prakash Verma,
Aged about 56 years,
Son of Shri Barkat Ram Verma,
R/O P/33/3, Officers Enclave,
Albert Road, Kanpur Cantt.

.....Applicant

By Advocate : Shri Rakesh Verma

Versus

1. Union of India through the
Secretary, Ministry of Defence,
New Delhi.
2. The Engineer-in-Chief,
Engineer-in-Chief's Branch,
Army Headquarters, Kashmir House,
DHQ PO, New Delhi.
3. The Chief Engineer,
Central Command, Lucknow.
4. Shri G.S. Singh,
Superintending Engineer,
Commander Works Engineer,
Kanpur Cantt.
5. Shri S. K. Agrawal,
Executive Engineer,
Garrison Engineer (MES),
Kanpur Cantt.
6. Shri S. K. Jain,
Manager, Punjab National Bank,
Civil Lines, Kanpur.

.....Respondents

By Advocate : Shri A. K. Pandey

Shri. S. Singh, B.

ORDER**HON'BLE DR. K. B. S. RAJAN, MEMBER-J**

The issue involved is short. The applicant had, while functioning as JE (E/M) was issued with a charge sheet on certain alleged charges (of forging, and non-intimation of transaction with the Bank) vide Annexure A-1 order. The grievance of the applicant is that the charge sheet has been issued by an authority not competent to issue the same and that when the applicant sought copies of the documents relied upon, most of them have not been furnished; that the applicant has been harassed by many ways, including slapping of another charge sheet upon the applicant by way of affixture and publication in the local daily and thus, has approached the Tribunal against the issue of charge sheet dated 16th September, 2003.

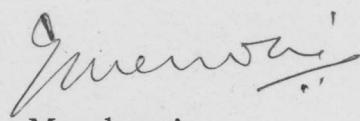
2. Respondents have contested the OA stating that it is premature for the applicant to file the OA. According to them, the applicant has to face the charge sheet and only when penalty is imposed, after exhausting remedies the applicant could move the Tribunal.
3. By order dated 30-10-2003, this Tribunal had restrained the respondents from proceeding further with the charge sheet, save with the leave of the court.
4. At the time of hearing, the counsel for the applicant states that the applicant stood retired w.e.f. 31-10-2007 and as such, there is no possibility of holding the inquiry.
5. The contention of the applicant is not correct. Proceedings can be initiated by an authority subordinate to the disciplinary authority. Under proper delegation, the power could be exercised. In this regard, Annexure 12 of the counter is evident that the authority who had issued the charge sheet in question had been authorized to initiate the disciplinary proceedings.
6. As regards continuation of the proceedings, the rule is as contained in Rule 9 of the CCS Pension Rules, 1972.

7. The Tribunal cannot quash any proceedings at the stage of charge sheet, save in under specific circumstances, as contained in **Union of India v. Upendra Singh, (1994) 3 SCC 357**, wherein the Apex Court has held as under:-

6. In the case of charges framed in a disciplinary inquiry the tribunal or court can interfere only if on the charges framed (read with imputation or particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law. At this stage, the tribunal has no jurisdiction to go into the correctness or truth of the charges. The tribunal cannot take over the functions of the disciplinary authority. The truth or otherwise of the charges is a matter for the disciplinary authority to go into. Indeed, even after the conclusion of the disciplinary proceedings, if the matter comes to court or tribunal, they have no jurisdiction to look into the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be. The function of the court/tribunal is one of judicial review, the parameters of which are repeatedly laid down by this Court.

8. In view of the above, the OA fails and is dismissed. Interim order passed is vacated. The respondents may go ahead with the proceedings. No opinion on the merit of the proceedings has been expressed by us. It is however suggested that as the applicant is now retired, and as his terminal benefits would have been withheld, the authorities may, subject to cooperation by the applicant, expeditiously conclude the proceedings, preferably within a period of six months from the date of communication of this order.

No costs.



Member-A



Member-J