

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Or. dt. 1.9.03

For Admission/  
Intimation order.

h.  
5/9

Bench

Or. dt. 2.9.03

Copies of order with  
Copies of OA sent to  
all members and copies of  
said order prepared for  
counsel for both sides.

h.  
12/9/03

Bus  
6/9/03

2. ORDER DATED 08.09.2003.

Heard Mr.D.P.Dhalsamant, Learned Counsel for the Applicant and Mr.A.K.Rose, learned Senior Standing Counsel for the Union of India, on whom a copy of this O.A. has already been served.

The Applicant has been proceeded with under Rule-16 of the CCS (CCA) Rules, vide Memo No.23-237/Ch.II dated 18.2.2003 by the Respondent No.3 which has resulted in imposition of a penalty by way of reduction of time scale of Rs.4,600-160-6,600/- from Rs.5,800/- to Rs.4,800/- (two stages) for a period of one year w.e.f. 1.8.2003 without cumulative effect and not adversely affecting his pension. The Applicant is aggrieved by this order of punishment <sup>which</sup> though passed on 14.8.03 has been given effect from 1.8.2003 and on that ground of nonapplication of mind the same order is liable to be set aside. Learned counsel for the Applicant has argued that this order of the disciplinary Authority dated 31.7.03/14.8.03 is in the nature of passing an order of punishment with retrospective effect and on that ground the same is liable to be set aside. Learned Counsel for the Applicant has admitted that the matter has not yet been carried to the Appellate Authority, although the period of appeal is still available. He has submitted that the Applicant had to rush to this Tribunal for the reason that under the CCS (CCA) Rules, Appellate Authority has no

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power to stay the order of the disciplinary Authority pending disposal of the appeal.

The submissions made by learned Counsel for the Applicant has, no doubt, lot of force but as the Applicant has not exhausted the departmental remedies available to him, we are not inclined to interfere/intervene in the matter, at this stage. He is, therefore, directed to submit his appeal before the designated authority bringing out the points that he has made in this O.A. <sup>and</sup> has also submitted before this Tribunal, as stated above. At this stage, we would only direct the Disciplinary Authority/Appellate Authority to consider the appeal to be filed by the Applicant on merits and, if any, relief by way of staying of the operation of the order of the Disciplinary authority can be granted pending disposal of the appeal; such power being inherent with the Disciplinary/Appellate Authority.

We accordingly dispose of this OA <sup>at</sup> the stage of admission, with the observations and directions made above. No costs.

Send copies of this order along with copies of the O.A. to the Respondents and free copies of this order be given to learned counsel for both sides.

*[Signature]*  
Vice-Chairman

*[Signature]*  
Member (Judl.)