

Notes of the Registry

Orders of the Tribunal

Order dated 4.7.05

Heard.

A copy of this O.A. has been served on Mr. B. Mehta-patra, Ld. Addl. Standing Counsel.

The applicant has come in this O.A. with a prayer for setting aside the report of the Inquiring Officer (IO) and for setting aside the Article of charge framed against her by the Disciplinary Authority vide his Memo dtd. 2.9.02.

From the facts of the case it reveals that the disciplinary authority had appointed an EO to enquire into the allegation brought against the applicant as communicated to her by Memo dtd. 2.9.02. The enquiry into the matter has been completed after the disciplinary authority by his letter dtd. 21.4.05 (Annexure-12) has sent a copy of the report dtd. 27.3.05 to the applicant to make any representation that she may like to do in writing to the disciplinary authority to say why no action should be taken against her within 15 days of receipt of this letter. Instead of availing of the opportunity of self-defence given to her by the disciplinary authority she has approached the Tribunal in this O.A. The Ld. Counsel for the applicant sought to justify the decision of the applicant to approach the Tribunal at this stage on the ground that she was not given ~~not~~ access to the original documents with the help of which the disciplinary authority sought to prove the article of charges framed against her and that she was denied the service of a legal counsel to defend her case.

Having heard the rival parties, we are of the view that the application is premature. The applicant should, in the first instance, take the opportunity

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of filing her show-cause stating why action should not be taken against her and whatever else she wants to submit, in opposition to the report of the IO and ^{also} other objections that she has raised in this O.A. Such an approach is commended not only in the interest of ~~litigation~~^{IF} but also in the interest of rule of law. We, therefore, direct the applicant to file her written representation as called upon her by the disciplinary authority by his Mme dtd. 21.4.05 (Annexure-A/12) by 22.7.05 and on receipt of the same, the disciplinary authority should finalise the disciplinary proceedings by issuing a speaking and reasoned order. After receipt of the order of disciplinary authority, if the applicant is still ~~feel~~ aggrieved, she would be well advised to approach the appellate authority for relief. In case her grievances are not attended to by the appellate authority she would be at liberty to approach this Tribunal seeking redressal of her grievance. In case, in the meantime the disciplinary authority has already passed the order, the said order will ~~not~~ remain stayed allowing the applicant 45 days time to file appeal before the appellate authority which should be disposed of within sixty days of the receipt of the appeal filed by the applicant.

With the above order, this O.A. is disposed of.

Free copies of this order be handed over to the parties for implementation.

Copies of order dt 4/7/05
Issued to council for both
Sides.

J
6/7/05

Member (J)
4/7/05
You

Vice-Chairman 4/7/05