R.Sahoo Vrs. UOI

Admission Sl. No. 5
O.A. No. 260/00368 of 2014
Order dated: 19.05.2014

CORAM

HON'BLE SHRI A. K. PATNAIK, MEMBER (JUDL.)
HON'BLE SHRI R.C.MISRA, MEMBER (ADMN.)

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Heard Mr. S. Patra-I, Ld. Counsel for the applicant, and Mr. S. Barik, Ld. Addl. Central Govt. Standing Counsel appearing for Respondents, on whom a copy of this O.A. has already been served.

2. This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, challenging the order dated 24.04.2014 for recovery of the amount from the applicant for negligence of duty without conducting an inquiry for which the applicant has alleged that the said order is bad, illegal, arbitrary, in violation of principle of natural justice and against Article 14 and 16 of the Constitution of India.

3. On the other hand, Mr. S. Barik, Ld. ACGSC, submitted that the punishment order has been imposed after following the due procedure of law and due to certain negligence on the part of the applicant he has been imposed with the minor penalty punishment for recovery of Rs. 59,966/- in 12 installments and the said punishment has

been imposed under Rule 16 of the CCS (CCA) Rules, 1965. Mr. Barik further brought to our notice the statutory appeal preferred by the applicant to the Director of Postal Services, i.e. Respondent No.3, on 28.04.2014, in which the applicant has also requested the appellate authority to stop recovery till the final disposal of this appeal. He submits that since the statutory appeal is pending, this Tribunal should not interfere in the matter at this stage.

4. Section 20 of the AT Act provides as under:

> **"20. Application not to be admitted unless other remedies exhausted –**
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> (1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.
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> (2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances, -
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> **(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or**
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> **(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was**

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preferred or representation was made has expired.

(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial."

5. The disciplinary proceedings are quasi judicial in nature. Therefore, the orders in disciplinary proceeding issued either by the Disciplinary Authority or Appellate Authority or Revisional Authority are in exercise of the quasi judicial power. According to the applicant he has submitted appeal to the appellate authority, who shall consider the same in exercise of the quasi judicial power conferred on him under the Statute. When application submitted by the applicant by way of appeal is under consideration to the authority for exercising of quasi judicial power, according to us, this Tribunal lacks jurisdiction to entertain this O.A. at this stage. This Tribunal could have entertained this O.A. for the inaction if there would have been delay in consideration of the appeal preferred by the applicant. In the instant case, since the applicant preferred appeal only on 28.04.2014 in which he has also prayed for stay of the recovery question of inaction in giving consideration to the appeal does not arise. Hence, in view of the discussions made above and taking into consideration ~~and~~ the specific

provision of the AT Act, this O.A. is dismissed being premature. There shall be no order as to costs.

MEMBER(Admn.)

MEMBER(Judl.)

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