

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. M.A. 451 of 1997
(O.A. 1379 of 1996)

Present : Hon'ble Dr. B. C. Sarma, Administrative Member.
Hon'ble Mr. D. Purkayastha, Judicial Member.

JATINDRA NATH BARMAN

Vs.

UNION OF INDIA & ORS.

For the applicant : Mr. N. Bhattacharjee, counsel.

For the respondents: Mr. B. Mukherjee, counsel.

Heard on : 28.11.1997

Order on : 28.11.1997

ORDER

B. C. Sarma, A. M.

This M.A. has been filed with a prayer that an interim order may be passed commanding the respondents not to proceed with the departmental proceeding which has been challenged by him in O.A. 1379 of 1996.

2. Mr. N. Bhattacharjee, counsel for the applicant, during hearing of the matter submits that the applicant has been summoned by the enquiry officer in respect of the proceedings to be held by him; otherwise the enquiry would be held ^{ex parte} ~~as per~~ rules. Mr. Bhattacharjee submits that this situation be corrected



and the respondents restrained to proceed further in the matter.

3. However, Mr.B.Mukherjee, ld.counsel appearing for the Union Of India and Ors. (OP), submits that in this case the charge sheet was issued against the applicant prior to the date of admission of the applicant which is 8.4.1997. Accordingly, therefore, the enquiry officer was appointed and part of the proceeding in the matter has advanced. According to Mr.Mukherjee, therefore, the respondents should be allowed to continue with the proceeding.

4. We have heard the submissions of the ld.counsel for both the parties and perused the records. In this connection, Section 19(4) of the A.T.Act, 1985, is very clear and it states that "Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal". In this case, the applicant in the O.A. has directly challenged the validity of the departmental proceedings instituted pursuant to the issuance of the charge sheet against him. The matter has been admitted and it is pending adjudication. If that be so, all proceedings against the applicant in the departmental proceedings initiated by the respondents must be stayed. The respondents cannot take the plea that ^{as} the charge sheet was issued earlier i.e. prior to the date of admission, they have the right to proceed with the proceedings. This is illegal and incorrect.

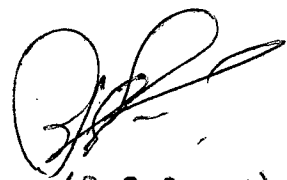
5. In view of the above, the application is allowed. We would like to make it clear that all proceedings in this case shall stand abated w.e.f. 8.4.1997 which is the date of admission of the application.



6. It appears that the applicant is aggrieved by the enquiry officer who has issued a notice against the applicant. But we find that the enquiry officer is not a party to the original application. Therefore, we are not inclined to issue any show-cause notice against the enquiry officer ^{for} against contempt of court for continuation of such departmental proceedings. In any event, PMG, West Bengal, should have known about the position and taken necessary steps.



(D. Purkayastha)
Judicial Member



(B. C. Sarma)
Administrative Member