CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR

ORIGINAL APPLICATION NO. 15/2011

Date of order: 02.02.2011

CORAM:

HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER

D.N. Gupta S/o Shri Radhey Shyam Gupta, aged 62 years, retired Chief Pharmacist, Heath Unit, North Western Railway, Phalodi, District Jodhpur, R/o D 29, Sector D, Saraswati Nagar, First Phase Basani, Jodhpur.

...Applicant.

Mr. Vijay Mehta, counsel for applicant.

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. Senior Divisional Medical Officer, North Western Railway, Jodhpur.
3. Shri Shahabuddin, (RIO) 368/6, Gali Langar Khana, Ajmer.

... Respondents.

ORDER
Per Hon'ble Mr. Justice S.M.M. Alam, Member (J)

Heard learned advocate of the applicant. The learned advocate of the applicant drew our attention towards Para 12 of the order dated 26th September, 2008 passed by this Bench of the Tribunal in OA No. 159/2007 and other connected matters, which reads thus:

> "12. In the conspectus of the facts and circumstances, we are of the view that ends of justice would be met by giving a direction to the respondents to keep the disciplinary proceedings in these cases in abeyance for sometime, till the witnesses as in the disciplinary proceedings, who are also witnesses in the criminal case, are examined by the criminal court. Thereafter, the departmental proceedings can commence as in that event the fear of the applicants that their defence in the disciplinary proceedings would come to be known to the prosecution in the criminal case would stand dispelled and would no longer subsist. In case even after two years the witnesses, as stated above, are not examined, the competent authority may consider either to wait till the witnesses are examined or make progress in the departmental proceedings. We order accordingly."

The learned advocate for the applicant submitted that in view of the above order, the authority was given liberty to wait for initiation of departmental enquiry till the witnesses are examined in criminal case or to start the departmental proceedings after completion of two years. The learned advocate submitted that even after completion of two years' period, the witnesses were not examined in the criminal case, and so the applicant filed an application before the competent authority not to proceed with the departmental enquiry till the witnesses are examined in the criminal case, but the competent authority did not accept the contention of the applicant and by order dated 16.12.2010 (Annex. A/1) the respondents have decided to commence the departmental proceedings against the applicant, and so the applicant has again come before this Tribunal as the grounds on which the previous O.A. was filed still subsist.

2. We have heard the learned advocate of the applicant and perused the order dated 16.12.2010 (Annex. A/1) passed by the Disciplinary Authority, and we are of the view that the said order is in consonance with the order passed in OA No. 159/2007 and other connected matters (supra), and therefore we are of the opinion that this Original Application cannot be entertained.

3. In the result, this Original Application stands dismissed at the admission stage itself. In the circumstances of the case, there shall be no order as to costs.

(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER

(JUSTICE S.M.M. ALAM)
JUDICIAL MEMBER

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दिनांक 7/6/16 के आदेशानुसार
मेरी उपस्थिति में दिनांक 9/6/16
को मूल-II व III पृथक किए गए ।

अनुभाग अधिकारी
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर न्यायपीठ, जोधपुर