

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 129/91
XXXXXX

109

DATE OF DECISION 25-1-91

BK Jaiswar

Applicant (s)

Mr KT Joseph

Advocate for the Applicant (s)

Versus

Union of India rep. by Secret Respondent (s)

Deptt. of Personnel, Ministry of
Home Affairs, New Delhi. & 2 Orgs.

Mr NN Sugunapalan, SCGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

Shri SP Mukerji, Vice Chairman

Heard the learned counsel for the applicant.

2 The applicant who belongs to the Kerala cadre of the

Indian Administrative Service has challenged the order of

punishment dated 25.9.90 at Annexure-A wherein the penalty

of with-holding of promotion for a period of two years was

imposed from the date of that order. He has also challenged

another impugned order dated 14.12.90 at Annexure-C in reply

had to his letter dated 12.11.90 at Annexure-B in which he/sought

(Annex.C)

clarification. The clarification was given to the effect

that on the expiry of a period of two years from the date

of issue of the punishment order, he will ~~not~~ be
eligible for promotion to the super-time scale.

3 Having gone through the documents we do
find
not prima facie any thing wrong with the clarificatory
letter dated 14.12.90 at Annexure-C in which it has
been stated that in accordance with the order of
punishment, the applicant will be eligible for
consideration for promotion to the super-time scale
after expiry of two years from the date of issue of
the order of punishment. The clarification clearly
follows from the order of punishment itself and
there is nothing in the clarificatory letter which
will need any intervention by the Tribunal. As
regards the impugned order dated 25.9.90 at Annexure-A,
which is a statutory order of punishment against which
the applicant has the liberty to file a statutory appeal as
provided in the All India Services (Discipline & Appeal)
Rules. However, the learned counsel for the applicant
fairly
clearly conceded that no appeal has been filed by the
applicant so far.

4 We feel ^{that} since the applicant has not exhausted
the statutory remedy under the service rules available
to him, the present application before us is premature

and has to be dismissed ^{limine} in ~~limine~~. In the circumstances,

the application is dismissed at the stage of admission

under Sections 19(3) ^{and 20} of the Administrative Tribunals*

Act of 1985. We, however, make it clear that this

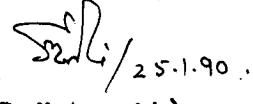
order will not prejudice the right of the applicant

to challenge the impugned order at Annexure-A in

accordance with law.

5 There will be no order as to costs.


(N Dharmadan) ^{25.1.91}
Judicial Member


(S P Mukerji) ^{25.1.90}
Vice Chairman

25-1-1991