

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 129/91
~~KXXXXX~~

~~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 Secretary Respondent (s)

Deptt. of Personnel, Ministry of
Home Affairs, New Delhi. ~~Ch 2018~~

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? Y
2. To be referred to the Reporter or not? N
3. Whether their Lordships wish to see the fair copy of the Judgement? N
4. To be circulated to all Benches of the Tribunal? N

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 to his letter dated 12.11.90 at Annexure-B in which he ^{had} sought clarification. The clarification was given ^(Annex.C) to the effect that on the expiry ^{the} 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.

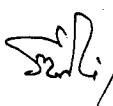
3 Having gone through the documents we do find not ~~prima facie~~ any thing wrong with the clarificatory letter dated 14.12.90 at Annexure-C in which it has been stated that in accordance with the order of punishment, the applicant will be eligible for consideration for promotion to the super-time scale after expiry of two years from the date of issue of the order of punishment. The clarification clearly follows from ^{the wording of} the order of punishment ^{which speaks for} 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 ^{for} 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 in ^{limine} ~~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

 25.1.90.
(SP Mukerji)
Vice Chairman

25-1-1991