

(16)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH AT LUCKNOW

O.A. NO. 165/90 (L)

Date of Decision 30.5.1990

Anil Kumar Singh Solanki

.....

Applicant.

Versus.

Union of India & Others.

.....

Respondents.

PRESENT:

Shri. R. Raman, learned counsel for the applicant is present.

COARM:

Hon. Mr. P.C. Jain, A.M.

Hon. Mr. J.P. Sharma, J.M.

(Judgement of the Bench by Hon. Mr. P.C. Jain, A.M.)

In this application under Section 19 of the Administrative Tribunals' Act, 1985, the applicant who is working as the Additional Director of Industries, U.P., Kanpur has assailed / confidential Office Memorandum dated 15.3.1990 (Annexure A11) whereby, he was awarded, for his work as Additional District Magistrate (Executive) Varansi, U.P., during the period 1978-81 an entry of censure and his Integrity certificate was also withheld. He has prayed that the impugned censure entry at Annexure A11 be declared as null and void and the same be quashed. The interim relief prayed for is to the effect that the respondents be directed not to take into consideration the impugned censure entry for the purposes of applicants' confirmation in the I.A.S and for any service matter detriment to the interest of the applicant during the pendency of the application.

2. The relevant facts, in brief, as disclosed in the application are that the applicant was appointed to the U.P. Civil Service (Executive Branch) on 20.10.1972 and was allotted ~~xxxxxxxxxx~~ seniority of 1964. He was promoted to the

Contd....2/-

AS

senior scale of the Civil Service w.e.f. 1.1.1976, wherein, he was confirmed w.e.f. ^{AS}30.1.1984. In the mean time he was promoted to the Special Grade post^{AS} in the scale of Rs. 1840-2400, since revised to Rs. 4100-5300, in December 1979. He was selected and appointed to the Special Grade post^{AS} in the scale of Rs. 2300-2700, since revised to Rs. 4500-5700, vide Radiogram dated 17.3.1989 from Chief Secretary to the Govt. of U.P. Lucknow to all Commissioners. He was appointed to the I.A.S. and placed on probation for a period of 1 year w.e.f. 7.9.89 vide order at Annexure A-2.

3. The applicant's case is that while working as Additional District Magistrate and Additional Collector, Varanasi, he passed certain judicial orders in three cases, in respect of release of coal under the Essential Commodities Act, 1955. Vide Commissioner Allahabad Division D.O. letter dated 19.4.85 he was asked to furnish his explanation regarding the irregularities mentioned therein allegedly committed by him in passing the aforesaid judicial orders. He furnished his explanation dated 8.5.85. However, he again received the same communication vide Commissioner, Allahabad Division D.O. letter dated 28.5.88 calling for the explanation. He sent a detailed explanation dated 29.9.89 to the Secretary to the Govt. of U.P. in the Appointment Department. His contention^{is} that the impugned order dated 15.3.90 is wholly illegal & nullity in the eyes of law, is beyond jurisdiction as the irregularities^{are} alleged pertain to judicial orders passed by him in exercise of judicial ^{powers} functions.

4. O.A. come up for admission on 17.5.90. And question on

Contd....3/-

(P6)

-: 3 :-

the point of jurisdiction crept up. It was directed to be listed for admission on 28.5.90. We have heard the learned counsel for the applicant on the point of jurisdiction,. It was pressed ^{Cen} ~~on~~ before us that the applicant having already ^{been} ~~being~~ appointed to the I.A.S, U.P. Public services Tribunal has no jurisdiction. It was also argued that if the OA is not adjudicated upon by the Central Administrative Tribunal, the applicant will be left with no alternative remedy.

5. After careful consideration of the matter, we are of the view that the Central Administrative Tribunal does not have jurisdiction in the matter of the main relief prayed for in this application. Para 4.17 of the OA states that the matter pertains to the years 1978-81 when the applicant was an officer of the U.P. Civil Service. It is further stated there ^{Cen} ~~in~~ that the impugned punishment order will be deemed to be an order of the Governor under Article 166(I) of the constitution of India. It is also stated that as per Govt. of India Ministry of Home Affairs letter No. 32/56/56-A15(2) dated 11/1/87, no appeal lies to the Govt. Of India under All India Service (Discipline & Appeal) Rules, 1969 in respect of matters pertaining to the period prior to the officer's appointment to the I.A.S./I.P.S. It is clear from the above that the matter pertains to the period when the applicant had not been appointed to the I.A.S. Further, the orders which have culminated in passing of the impugned order dated 15.3.1990 were passed by him when he was an officer of the U.P. Civil Service (Executive Branch) and was serving in connection with the affairs of State of U.P. The impugned order has been passed by the Government of U.P. Though, the State of U.P. has been arrayed as respondent No.3 in this application, the Central Administrative Tribunal has no jurisdiction over this respondent. The main relief prayed for also relates to the quashing of the order which has been

^{Cen}

Contd....4/-

AP

-: 4 :-

passed by the Government of U.P. For all these reasons, there is no matter of doubt that the Central Administrative Tribunal doesnot have jurisdiction to adjudicate ^{on} the validity of the impugned order dated 15.3.1990.

6. As regard the prayer for interim relief, it is true that the prayer as formulated by the applicant relates to non consideration of the impugned order in the matter of applicants' confirmation in the I.A.S. Such a formulation however, would not give jurisdiction to the Central Administrative Tribunal in this matter at this stage. Unless, the impugned order is set aside by the Competent Authorities / forum, the Central Administrative Tribunal ~~cannot~~ ^{cannot} indirectly ~~the~~ grant the main relief as part of the Interim relief. If the Central Administrative Tribunal doesnot have jurisdiction in the matter of main relief, ^{it} cannot acquire jurisdiction in the matter of interim relief connected therewith, directly or indirectly. If, the applicant is aggrieved in the matter of his confirmation in the I.A.S. etc., he would be free to approach Central Administrative Tribunal at the appropriate time.

In view of the above discussion the application is disposed off as not maintainable for want of jurisdiction.

J. Sharma
Jud. Member

30/5/90
Admn. Member

Lucknow,

Dated the 30th May, 1990.