

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING No.6
PRESCOT ROAD, MUMBAI-1

ORDER IN MISCELLANEOUS PETITION No. 225/97
IN
ORIGINAL APPLICATION No. 401/95

Dr 25.7.97

CORAM: Hon'ble Shri B S Hegde, Member(J)
Hon'ble Shri M R Kolhatkar, Member(A)

Z.J. Aga
(By Adv.Mr. D V Gangal)

..Applicant

V/s.

Union of India through
the Chairman & Managing
Director, MTNL, New Delhi
& 2 others.
(By Adv.Mr. V S Masurkar,
Central Government Standing
Counsel)

..Respondents

ORDER

[Per: B.S.Hegde, Member(J)]

1. Heard Mr. D V Gangal, counsel for the applicant and
Mr. V S Masurkar, counsel for the respondents.

2. Applicant has filed Miscellaneous Petition seeking
amendment in the prayer clause 8(h) to hold and declare
that the memorandum chargesheet dated 17.2.1997 is
illegal and malafide and be quashed and 9(d) for a
direction restraining the respondents from proceeding
with the departmental enquiry vide Memorandum of
chargesheet dated 17.2.1997 as also for grant of
ad-interim ex-parte order in terms of prayer 9(d) above.

3. It may be recalled that the applicant has filed O.A.
No.401/95 on 27.3.1995 against the transfer order issued
by the respondents dated 4.10.94. After hearing the
counsel for the applicant the Tribunal vide its order



dated 20.4.1995 admitted the O.A. but rejected the prayer for interim order for staying the transfer order. The Tribunal normally does not interfere with the orders of transfer and the applicant has not shown that the transfer is either malafide or arbitrary. He has been posted in Bombay without any disturbance to his family life. Ld. Counsel for the applicant Mr. D V Gangal contended that the subject matter of the chargesheet dated 17.2.1997 is identical with the grounds of the applicant in the O.A. and hence the amendment of the O.A. is being sought for quashing the chargesheet. The grievance of the applicant is if it is treated as misconduct and allowed to continue with the charge memo, the Tribunal will not be able to effectively decide the O.A. and hence stay of the departmental proceedings is warranted.

4. As against this the Learned Counsel for the respondents Mr. V S Masurkar, vehemently opposed any stay at this stage or quashing the charge sheet against the applicant. Further it is contended that the reliefs claimed in the O.A. and M.P. are distinct and different and the prayer made in the M.P. is not sustainable as it does not flow from the prayers made in the O.A. Further new prayers cannot be added or revised through a M.P. and it is incorrect that the departmental proceeding is initiated against the applicant is similar to the O.A. The O.A. is against the transfer order. However, in the M.P. the cancellation of disciplinary proceedings is

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sought. The departmental proceeding is on entirely different footing than the original prayer in the O.A.

5. We are of the considered opinion that this Tribunal can neither interfere with the departmental proceedings initiated against the applicant at this stage by virtue of charge sheet dated 17.2.1997 nor give any directions for other reliefs sought for in the M.P. as the O.A. has already been admitted. The issue raised in the M.P. is answered in the negative. However, we can only direct that the competent authority may expedite the disciplinary proceedings as expeditiously as possible.

6. In the result we see no merit in M.P. No.225/97 and the same is dismissed.

M.R. Kolhatkar

(M.R. Kolhatkar)

Member(A)

B.S. Hegde

(B.S. Hegde)

Member(J)