

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

JODHPUR BENCH, AT JAIPUR.

A 3/1

O.A.No.604 of 1990.

Date of Decision: 26th July, '91.

S.B. Narsinghani

.. Applicant.

Mr. D.P. Ojha

.. Counsel for the
Applicant.

Versus

U.O.I. & Ors.

.. Respondents.

Mr.U.D. Sharma

.. Counsel for the
Respondents.

CORAM:

1. The Hon'ble Mr.Kaushal Kumar

- Vice Chairman.

2. The Hon'ble Mr.Gopal Krishna

- Member (Judl.)

KAUSHAL KUMAR, VICE CHAIRMAN.

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 30th March, '89 (Annexure A-5) passed by the Disciplinary Authority imposing upon him the penalty of "withholding of one increment for one year without cumulative effect and recovery of Rs.72/- from his pay towards the loss of revenue to the department against undercharging the call for Bombay by two units" and the order dated 30th October, '90 passed by the Appellate Authority filed as Annexure A-1 modifying the penalty to the extent "that one next increment be withheld for three years without cumulative effect". A preliminary objection has been raised by the learned counsel for respondents that the applicant has not exhausted the remedies available to him under the service rules as per provision of Section 20 of the Administrative Tribunals Act, 1985. In this connection, the learned counsel has referred to Rule 23(iii) of the CCS (CCA) Rules which reads as follows :-

"Subject to the provisions of Rule 22, a Government servant may prefer an appeal against all or any of the following orders, namely

(iii) an order enhancing any penalty, imposed under Rule 11.

Amended
The learned counsel further contends that the

26/7/91

..../2

AK

O.A.No.604 of 1990.

appeal will lie to the authority to which the authority making the order appealed against is immediately subordinate as per provisions of Rule 24 (1) (ii). Since a further appeal lies against the order passed by the Appellate Authority in this case on 30th October, '90, we direct that the applicant shall within a period of 30 days from today make an appeal to the concerned authority immediately above the authority which passed the appellate order dated 30th October, '90 and the said authority shall entertain the appeal and dispose of the same on merits through a speaking order within a period of three months from the date of receipt of the appeal.

The above application stands disposed of with the above directions. However, the applicant will be at liberty to file a fresh O.A., if so advised, after he has exhausted the remedies available to him, under the service rules. A copy of this order shall be sent to the respondents along with a copy of the O.A. and the annexures.



Gopals
(GOPAL KRISHNA)
MEMBER (JUDL.)

Kaushal
(KAUSHAL KUMAR)
VICE CHAIRMAN.

26/7/91