

9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

O.A.NO.127/93 : Date of order 18.3.93

Bidhi Chandra Chaturvedi : Applicant.

Mr.K.S.Sharma : Counsel for the applicant.

U.O.I. & Ors. : Respondents.

Mr.V.S.Gujar : Counsel for the respondents.

Mr.V.S.Gujar : Counsel for the respondents.

Mr.V.S.Gujar : Counsel for the respondents.

HON'BLE MR.JUSTICE D.L.MEHTA, VICE CHAIRMAN

HON'BLE MR.D.N.DHOUNDIYAL, ADMINISTRATIVE MEMBER

HON'BLE MR. JUSTICE D.L.MEHTA, VICE CHAIRMAN



Mr.K.S.Sharma, appearing on behalf of the applicant submits that his client has not been charged so far and he has completed his first phase of the training. He further submits that vide Annexure A.1 dated 5.2.93, his client has been temporarily posted as JTO for field training. He submits that this order implies that the applicant has been promoted as JTO and is at present holding the post of JTO. He further submits that once his client has completed the first phase of the training ^{he} should also be allowed to proceed for the second phase of the training.

2. Mr.V.S.Gujar, appearing on behalf of the respondents submits that instruction 27 provides that:

Attached.

"the question whether an official who submits an application for permission to sit at the examination for departmental candidates, and against whom either disciplinary proceedings have been initiated or who is under suspension should be allowed to take the examination or not has been under consideration for some time past. It has now been decided in consultation with the Ministry of Home Affairs, that such an official might be admitted to the examination even though he may be under suspension or disciplinary proceedings might have been initiated against him, if he satisfies all the other conditions prescribed for admission to such examination. The official can, however, be promoted only after the disciplinary proceedings are over and he is completely exonerated".

This instruction even taken on its face value, it is not at all relevant for the purpose of training and the departmental examinations and the training are different things.

3. Mr. Gurjar, submits that on 11.2.93, a charge sheet had been issued and was sent through registered post. ^{by} ~~Adm. Manager~~ The envelope was received back with the remark that "person to whom it is to be delivered is not available at home". Once the charge sheet has been issued through not served is a sufficient ground for taking action in a way that the charge sheet has been served.

*Affable
Guru*

Of course the disciplinary proceedings can only be started after the service of the charge sheet but for other purposes, the issuance of charge sheet is sufficient. We do not find any force in the submission made by Mr. Sharma. Applicant cannot get the benefit of the case of Jankiram's case reported in AIR 1991 page 2010. It is not a case of contemplated enquiry but a case in which charge sheet has already been issued.

4. Next limb of the argument is that the applicant cannot be sent for training as ~~regular appointment~~ as JTO is a precondition for training. No rules have been cited to show that it is necessary to appoint a person prior sending him for training. Hence the contention of the learned counsel for the respondents is not acceptable. We do not find any force in the contention of Mr. Gujar ~~that he is not fit for the post~~ As far as the applicant is concerned, he has completed the first phase of training and is now under field training. He should be allowed to complete the ~~second~~ phase of training. If he succeeds in the second phase of the training the respondents shall be free to take a decision on the basis of the results of the departmental enquiry and in accordance with the rules regarding his regular appointment as JTO. If exonerated, he shall be entitled for all consequential benefits including promotion as JTO.

With this observation, the O.A. is disposed of with the direction that the applicant should be allowed to undergo the second phase of training. Parties to bear their own costs.

TRUE - COPY

Section Officer (Judicial) 23/3/93
Central Administrative Tribunal
JAIPUR BENCH, JAIPUR (Raj.)

Attest

3d-