

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 291/00569/2016

Date of Order:25.7.2016

CORAM

**Hon'ble Mr. Sanjeev Kumar Kaushik, Judicial Member
Hon'ble Ms. Meenakshi Hooja, Administrative Member**

Prabhu Dayal Yogi S/o Shri Nanagram Yogi, aged about 55 years, resident of Near Bus Stand, Kaladera, District Jaipur, Rajasthan. Appellant holding the post of Post Master and at present posting at Dholpur Post Office, Dholpur(D).

.....Applicant

(By Advocate Mr. Tanveer Ahmed)

VERSUS

- 1.Union of India, through the Secretary, Ministry of Communication, New Delhi.
- 2.The Chief Post Master General, Rajasthan Circle, Jaipur.
- 3.The Superintendent of Post Office, Jaipur(M), Division, Jaipur.
- 4.Shri Dushyant Mudgal, Director, Postal Services, Jaipur Region, Jaipur.

.....Respondents

ORDER

(Per Hon'ble Mr. Sanjeev Kumar Kaushik, Judicial Member

The present Original Application under section 19 of the Administrative Tribunals Act, 1985 has been filed by the applicant against the Charge Sheet dated 8.1.2016 (Annexure A-1) and further proceedings on that basis.

2. It is well settled principle of law that challenge to a charge sheet or show cause notice is not maintainable before a court of law including this Tribunal. It would, therefore, not be proper for this Tribunal to interfere with the departmental proceedings at this stage

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as no final decision has yet been taken by the respondents . In the case of **Union of India and Another v. Kunisetty Satyanarayana**:(2006) 12 SCC 28, wherein the issue was of maintainability of writ petition under Article 226 of the Constitution of India qua challenge to cause notice/charge- sheet, the Hon'ble Supreme Court has held as under:-

"14. The reason why ordinarily a writ petition should not be entertained against a mere show- cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show- cause notice or charge-sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter."

3. Similarly, in **Managing Director, Madras Metropolitan Water Supply and Sewerage Board and another Vs. R.Rajan and others** (1996) 1 SCC 338, the Hon'ble Supreme Court has held as under:-

"As rightly held by the learned Single Judge and the Division Bench no interference was called for at an interlocutory stage of the disciplinary proceedings. The enquiry was no doubt over but the competent authority was yet to decide whether the charges against the respondents are established either wholly or partly and what punishment, if any, is called for. At this stage of proceedings, it was wholly unnecessary to go into the question as to who is competent to impose which punishment upon the

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respondents. Such an exercise is purely academic at this stage of the disciplinary proceedings."

4. In the case of **Chanan Singh Vs Registrar, Co-op Societies, Punjab and others** reported in AIR 1976 SC 1821, wherein show cause notice was issued to appellant therein as to why on account of finding of Enquiry Officer he be not dismissed from service and same was challenged before High Court by filing a petition under Article 226 of the Constitution of India. The High Court dismissed the petition as premature. On challenge before the Hon'ble Supreme Court, their Lordships dismissed the appeal and held as under:-

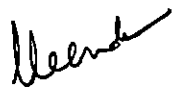
"5. No punitive action has yet been taken. It is difficult to state, apart from speculation, what the outcome of the proceedings will be. In case the appellant is punished, it is certainly open to him either to file an appeal as provided in the relevant rules or to take other action that he may be advised to resort to. It is not for us, at the moment, to consider whether a writ petition will lie or whether an industrial dispute should be raised or whether an appeal to the competent authority under the rules is the proper remedy, although these issues which merit serious consideration.

5. In this case admittedly, the applicant has not filed any reply to the charge sheet so far and instead approached the department with a plea that he may be allowed a personal hearing and only thereafter he will file a reply to charge sheet. This request did not find favour with the authorities and vide order dated 31.5.2016, they appointed an Inquiry Officer to conduct enquiry into the three charges relating to drawal of HRA to which he was not entitled to as he was enjoying facility of attached accommodation.

6. We notice that there is no ground made out for maintenance of the O.A at this stage as it is only in a very rare or exceptional case that Court or Tribunal we can quash the charge-sheet if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal, which we do not find at this stage of the proceedings.

7. Faced with the predicament, Shri Tanveer Ahmed, learned counsel for the applicant submits that he may be granted permission to withdraw this Original Application with liberty to file reply to the charge sheet / show cause notice within a period of 7 days from the date of receipt of a certified copy of this order. If the reply is filed within the stipulated time, the respondents are directed to consider the same and pass a speaking order. If the respondents do not receive any reply, they are free to proceed in the matter.

8. O.A shall stand disposed of accordingly. No costs.


(MS.MEENAKSHI HOOJA)
MEMBER (A)


(S.K.KAUSHIK)
MEMBER (J)

Adm/