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**Central Administrative Tribunal
Jabalpur Bench**

OA No.471/06

Jabalpur, this the 30th day of August, 2006

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman

Hon'ble Mr.A.K.Gaur, Judicial Member

Mohd.Rafique

S/o late Shri Chhote Khan

R/o Q.No.33, MES Colony, Katanga

Behind GE Office Area,

Cantt.Jabalpur.

Applicant.

(By advocate Shri P.S.Chaturvedi)

Versus

1. Union of India through
Secretary
Ministry of Defence
New Delhi.

2. Commander Works Engineer
MES Cantt.Supply Road
Distt. Jabalpur.

3. Garrison Engineer West
MES Cantt Supply Road
Distt.Jabalpur.

Respondents

(By advocate: None)

ORDER

By A.K.Gaur, Judicial Member

The applicant is challenging the order dated 26.6.06 passed by Executive Engineer, GE (West), Jabalpur.

2. When the OA came up for admission on 26th July 2006, learned counsel for the applicant prayed for an interim relief of staying the departmental proceedings against the applicant. It appears that the departmental proceedings were initiated by issuing a charge sheet dated 12.2.04 (A-6), the enquiry has already been completed and copy of the enquiry report furnished to the applicant. The disciplinary

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authority directed the applicant to make a representation within 15 days from the date of receipt of the enquiry report which was furnished to him on 26th June 2006.

3. However, it was found that the complete documents had not been filed along with the OA. Accordingly, at the request of the learned counsel for the applicant, time was granted to him to file the complete documents and the case was directed to be listed for admission on 31.7.06.

4. When the case was taken up ~~today~~^{on} (31.7.2006), the learned counsel for the applicant could not indicate the relevance of the documents undertaken to be filed by him. It is stated by the counsel that Garrison Engineer has no authority to issue the charge sheet against the applicant. The enquiry has been completed without furnishing certain documents demanded by the applicant. The grievance of the applicant is that the respondents are now initiating the departmental proceedings against him on the ground that he had fraudulently secured employment in MES by producing false documents in support of educational qualification, date of birth and name. The applicant's case is that the services of the applicant, who was appointed as a Fitter, were regularized after proper verification of all the documents and original records by the respondents. It has been contended by the learned counsel for the applicant that the departmental proceedings have been initiated at the instance of a person who was inimical to the applicant, and on the basis of his baseless allegations the enquiry has been initiated.

5. We have heard the learned counsel for the applicant at considerable length. We are of the considered opinion that it will not be proper for us now to interfere with the disciplinary proceedings and draw an inference about the correctness or otherwise of the charges levelled against the applicant or to interfere with the enquiry report at such an interlocutory stage when the disciplinary authority has not passed any final order. The Hon. Supreme Court in 2000 SCC (L&S) 1100 - District Forest Officer Vs. R.Rajamanikkam & Ors- has observed that "at this stage the Tribunal has no jurisdiction to go into

the correctness or truth of the charges. The Tribunal cannot take over the functions of the disciplinary authority. The truth or otherwise is a matter for the disciplinary authority to go into. Even after conclusion of the disciplinary proceedings, if the matter goes to the Tribunal, they have no jurisdiction to look into the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or appellate authority, as the case may be". In another decision reported in 1992 ATC 21- Union of India & ors. Vs. A.N.Saxena, the Hon. Supreme Court has observed as follows:-

"The Tribunal should have been very careful before granting stay in disciplinary proceedings at an interlocutory stage. The imputations made against the respondents were extremely serious and the facts alleged if proved would have established misconduct. However, without even a counter being filed at an interim stage, the Tribunal without giving any reasons and without apparently considering whether the memo of charges deserves to be enquired into or not, granted stay of the disciplinary proceedings. If disciplinary proceedings are stayed so lightly it would be extremely difficult to bring any wrong doers to book".

6. In view of aforesaid discussion, we dismiss the OA in limine. However, we make it clear that if any final and adverse order is passed by the respondents, it will be open to the applicant to challenge the same in accordance with law.

(Signature)
(A.K.Gaur)
Judicial member

(Signature)
(Dr.G.C.Srivastava)
Vice Chairman

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- पृष्ठांकन सं. ले/व्या.....जयलपुर, दि.....
- पत्रिका सं. ७२३/१९७६
- (1) सचिव, जयलपुर
 - (2) सहायक सचिव, जयलपुर
 - (3) सहायक सचिव, जयलपुर
 - (4) अध्यक्ष, जयलपुर
- सूचना एवं आचार्य के कार्यालय

(Signature)
P.S. Chaturvedi

(Signature)
7/9/76

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07/09/76