

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING AT INDORE

Original Application No. 935 of 2005

Indore, this the 17th day of October, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

V.K. Rokade, S/o. late Shri
K.N. Rokade, aged about years,
Superintending Engineer (P&A),
Office of the Chief Engineer,
Western Zone-I, CPWD, Mumbai. ... Applicant

(By Advocate - Shri S. Akthar)

V e r s u s

1. Union of India, through
the Secretary, Ministry of Urban
Development, Nirman Bhawan, New Delhi.
2. Under Secretary, Government of India,
Ministry of Urban Development (Works
Division), Nirman Bhawan, New
Delhi. ... Respondents

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has
claimed the following main relief :

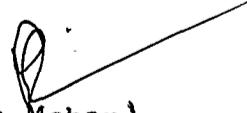
"(ii) hold and quash the impugned memorandum of
charge dated 22.7.2005 as the same is bad in law."

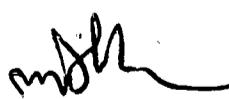
2. The brief facts of the case are that the applicant vide
order dated 22.7.2005 (Annexure A-4) has been issued an OM
under Rule 16 of the CCS (CCA) Rules, 1965 and has been
asked to submit his representation within 10 days of its
receipt. As per the imputation of charge the applicant while
functioning as Executive Engineer, Indore Central Division-I,
Indore during the year 1985, engaged Shri Madhukar Kolharkar
as English Typist (a Group-C post) on daily wages basis with
effect from 17.10.1985. The services of Shri Madhukar
Kolharkar were terminated by an order dated 23.9.1988. He
filed the dispute before the Central Government Industrial

Tribunal, Jabalpur and the Tribunal gave its award on 8.3.1996. This award of the Tribunal was challenged before the Hon'ble High Court of Madhya Pradesh and the Hon'ble High Court upheld the award of the Tribunal. Thereafter, an SLP was filed before the Hon'ble Supreme Court and the same was dismissed on 27.3.2001. As such there was no legal remedy left to the Government but to implement the award. Thus, lapse on the part of the applicant had led to litigation and the Government was forced to appoint Shri Madhukar Kolharkar as IDC in supersession of all the mandatory procedures required to be adopted for such appointment. Hence, the applicant has been issued the aforesaid OM.

3. It is well settled legal proposition that the Courts/ Tribunals should not interfere at the time of investigation. If the applicant at the time of issuance of the OM has any grievance against the same or against the charges framed against him, he has to raise all these issues before the disciplinary authority. But the applicant instead of filing the reply within 10 days have directly approached this Tribunal.

4. In view of the aforesaid this OA has no merit and is liable to be dismissed. Accordingly, the present Original Application is dismissed at the admission stage itself. The Registry is directed to send a copy of this order to the respondents.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman