

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 105 of 2004

Jabalpur, this the 23rd day of March, 2004

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

Kamleshwar Kumar Jain S/o  
Late Shri Bhaiyalal Jain,  
aged 60 year, Sr. Store Supdt.  
(Rtd.), C.O.D. JBP, R/o Shahi  
Naka, Garha, Jabalpur(M.P.)

APPLICANT

(By Advocate - None)

VERSUS

1. Union of India, through  
Secretary, Ministry of Defence,  
South Block, New Delhi.
2. Director Genral of Ordnance  
Services, Army Head Quarter  
DHQ PO, New Delhi.
3. Officer-In-Charge, AOC Records,  
Trimugherry Post, P.B.No.3,  
Secunderabad-500 015
4. The Commandent,  
Central Ordnance Depot,  
Jabalpur(M.P.)

RESPONDENTS

(By Advocate - Shri K.N. Pethia)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

By filing this OA, the applicant has sought a direction  
(sic)  
to quash the DE(Annexure-A-6) & charge sheet (Annexure-A-4).

2. None for applicant. We are disposing of this OA  
by invoking the provisions of Rule 15 of the Central Adminis-  
trative Tribunal (procedure) Rules, 1987.

3. Heard the learned counsel for the respondents and  
perused the records.

4. MA No. 372/04 has been filed by the respondents praying  
for dismissal of the OA, in view of the facts that the  
applicant has also filed one application under Section 33(c)  
of the Industrial Disputes Act before the Presiding Officer,  
Labour Court, Jabalpur in which the Deputy Registrar has

*AM*

been arrayed as a party and it is very unfortunate that the Labour Court issued the notices to the said authority which is against the propriety and judicial discipline because the Deputy Registrar, being the custodian of records is higher authority than the Presiding Officer, Labour Court". Earlier the applicant has filed an OA No. 479/2003 and the Tribunal vide its order dated 14.8.2003 has passed the following order -

"5....The Original Application is partly allowed. The respondents are directed to expedite the disciplinary proceedings being held against the applicant and conclude the same within a period of 6 months from the date of receipt of copy of this order. Let a copy of this order alongwith the paper book be supplied to the respondents for their necessary action. The Original Application stands disposed of accordingly in limine at admission stage itself".

Since the enquiry could not be completed within six months as directed by the Tribunal, the respondents in OA 479/2003 had filed MA No. 33/2004 seeking extension of time by six months to complete the enquiry. In that MA, the respondents have stated that the applicant is not co-operating with the respondents to complete the enquiry. They had also stated that the applicant had not participated in the enquiry and had been seeking fresh dates for holding the enquiry on the ground of illness. Since the applicant had not been participating in the enquiry and was not cooperating with the respondents, the Tribunal vide its order dated

10.2.2004 in MA No. 33 /2004 granted further six months time

It has further been contended by the respondents that to complete the enquiry. The applicant has been filing applications/petitions at every available forum and also impleaded the Dy.Registrar of the Tribunal in a case before the Labour Court, Jabalpur.

5. After carefully considering the arguments advanced by the learned counsel for respondents and perusing the available pleadings, we find that since the issues relating to the <sup>present impugned</sup> charge-sheet have already been dealt with by the Tribunal in the earlier OA 479/2003, therefore, the same issue cannot be a matter of adjudication again by the Tribunal as it is hit by the principle of constructive resjudicata.

Cntd...3/-

6. In the result, for the reasons recorded above, the OA is dismissed, however, without any order as to costs.

7. Before we may part with this, we also deprecate the action of the Presiding Officer, Labour Court, Jabalpur by issuing a notice to the Dy. Registrar of this Tribunal in Case No. 32 of 2003 (Kamleshwar Kumar Jain Vs. The Commandant, Central Ordnance Depot, Jabalpur) which is against the propriety and judicial discipline. The Registry is directed to send a copy of this order to the Chairman, M.P. State Industrial Court, Moti Mahal, M.G. Road, Indore for any action as deemed appropriate.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

rkv.

पूरांकन सं. ०१/२००३ ..... ज.०३/२००३, दि. ....

- (1) जादेव, ज.०३/२००३, ज.०३/२००३, ज.०३/२००३
- (2) जादेव, ज.०३/२००३, ज.०३/२००३, ज.०३/२००३
- (3) प्रत्यक्षी श्री/प्रत्यक्षी/कु ..... काउंसिल
- (4) कंठपल, ज.०३/२००३, ज.०३/२००३, ज.०३/२००३  
सूचना एवं आवश्यक कार्यवाही हेतु

SK Pathak  
KN Pathak

Chairman, MP State Industrial Court

*[Handwritten signature]*  
8/4/03

7/4/03  
12-4-03