

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 463 of 2000

Jabalpur, this the 8th day of July, 2003.

Hon'ble Mr. D.C. Verma, Vice Chairman (Judicial)  
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Shabbir Ahmad, aged about 27 years,  
S/o Baseer Ahmad, Occupation Govt.  
Servant (Under Suspension) R/o Staff  
Quarter No. A/2 Kendriya Vidhyalay  
No.1 Campus, West land Khamaria,  
Jabalpur (MP.)

APPLICANT

(By Advocate - Shri Mukhtar Ahmad)

VERSUS

1. Kendriya Vidhyalya Sangathan  
through Chairman Kendriya  
Vidhyalya Sangathan  
New Delhi.
2. Assistant Commissioner,  
Kendriya Vidhyalya Sangathan,  
Jabalpur (MP.)
3. Principal Kendriya Vidhyalya  
No.1 Ordnance Factory Khamaria,  
Jabalpur 482005 (MP)
4. Shri S.P. Pandey, Vice Principal/  
Inquiry Officer Kendriya Vidhyalya  
No. 1 Ordnance Factory Khamaria,  
Jabalpur 482-005 (M.P.)

RESPONDENTS

(By Advocate - Shri M.K. Verma)

O R D E R (ORAL)

By D.C. Verma, Vice Chairman (Judicial) -

By this Original Application the applicant initially challenged the enquiry report dated 31.3.2000 (Annexure A/10) and the Tribunal vide its order dated 6.6.2000 passed an interim order that the disciplinary authority should not take any further action on the enquiry report. The respondents have filed a short reply. Annexure R/1 to the short reply shows that vide order dated 22.5.2000, an order of penalty of

dismissal from service was already passed by the disciplinary authority. The applicant thereafter amended the Original Application in April 2001 to challenge the penalty order passed on 22.5.2000.

2. The preliminary objection on behalf of the respondents is that the applicant has not filed any appeal against the said penalty order and has come to the Tribunal without exhausting the departmental remedy. The learned counsel, on the other hand submitted that the applicant has come to challenge the enquiry report itself and the penalty order was passed subsequently. Further submission is that the applicant can come to the Tribunal even if he has not filed any appeal.

3. In view of Section 20(1) of the AT Act and in the light of the decision of the Apex Court in the case of S.S. Rathore Vs. <sup>State</sup> ~~of MP~~ ~~State~~ reported in AIR 1990 SC Page 10, we are of the view that the applicant can approach the Tribunal only after exhausting the departmental remedy. The Apex Courts and 16 in para 15/16 of the above judgement observed as below :-

15. In several States the Conduct Rules for Government servants require the administrative remedies to be exhausted before the disciplinary orders can be challenged in court. Section 20(1) of the Administrative Tribunals ACT, 1985 provides:

"20(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances."

16. The Rules relating to disciplinary proceedings do provide for an appeal against the orders of punishment imposed on public



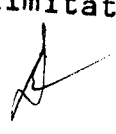
servants. Some Rules provide even a second appeal or a revision. The purport of S.20 of the Administrative Tribunals Act is to give effect to the Disciplinary Rules and the exhaustion of the remedies available thereunder is a condition precedent to maintaining of claims under the Administrative Tribunals Act. Administrative Tribunals have been set up for Government servants of the Centre and several States have already set up such Tribunals under the Act for the employees of the respective States. The law is soon going to get crystallised on the line laid down under S.20 of the Administrative Tribunals Act."

(Emphasis made by us)

Section 20(1) of AT Act also provides that the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant has availed all the remedies available to him under relevant service rules as to redressal of grievances. It is not denied rather it is admitted that the applicant has not filed the appeal. Thus the applicant has not exhausted the departmental remedy.


4. The learned counsel for the applicant has tried to challenge the enquiry officer's report on various grounds but we do not, at this stage, wish to express any view with regard to the same as it may effect the decision of the appellate authority. It would be open for the appellate authority to consider the grounds taken in the appeal and decide the same as per the provisions of law.

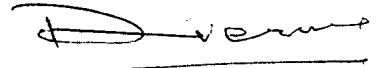
5. In view of the discussion made above we decide this OA on the preliminary point that the applicant has not exhausted the departmental remedy and we therefore provide the applicant one month's time to file an appeal to the appellate authority from the date of communication of this order. The appellate authority shall irrespective of the period of limitation, consider the



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said appeal on merit as per the law and decide the same with a speaking order within a period of 3 months from the date of filing of the appeal by the applicant. The decision so taken by the appellate authority shall be communicated to the applicant. The DA stands decided accordingly. Costs easy.

  
(Anand Kumar Bhatt)  
Administrative Member

  
(D.C. Verma)  
Vice Chairman (Judicial)

"SA"


पृष्ठान्त सं ओ/न्या.....जवलपुर, दि.....

पतिलिपि अर्कोहित

- (1) सचिव, उच्च न्यायालय एवं जज, जवलपुर
- (2) अध्यक्ष न्यायिक सेवा आयोग, जज, जवलपुर
- (3) प्रमुख श्री/श्रीमती/पु... जज, जवलपुर
- (4) न्यायालय, जज, जवलपुर

सूचना एवं आवश्यक कार्यवाही

रजिस्ट्रार

  
14-7-02

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on 14.7.03  
BS