

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

APPLICATION NO.: _____

Applicant(s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

04.08.2008

OA No. 281/2008

Mr. Vinod Goyal, Counsel for applicant.

Heard learned counsel for the applicant.

For the reasons dictated separately, the OA is disposed of.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 04th August, 2008

ORIGINATION APPLICATION NO. 281/2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Pradeep Kumar Goyal son of Late Shri Mohan Lal Agarwal, aged about 58 years, Resident of III-168, A.G. Colony, Bajaj Nagar, Jaipur. Presently posted as Senior Accountant in the Office of Accountant General (A&E) Rajasthan, Jaipur (Under suspension).

.....APPLICANT

(By Advocate: Mr. Vinod Goyal)

VERSUS

1. Union of India through the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (Accounts & Entitlement) Rajasthan, Jan Path, Near Statue Circle, Jaipur.
3. Sr. Deputy/Deputy Accountant General (Administration) & Disciplinary Authority, Office of the Accountant General (Accounts & Entitlement) Rajasthan, Jan Path, Near Statue Circle, Jaipur.
4. Smt. Meenakshi Mishra, Accountant General, (Accounts & Entitlement), Rajasthan, Jan Path, Near Statue Circle, Jaipur.
5. Shri A.K. Khan, Senior Accounts Officer/Ex./ Inquiry Officer, Office of the Accountant General (Accounts & Entitlement) Rajasthan, Jan Path, Near Statue Circle, Jaipur.

.....RESPONDENTS

(By Advocate: -----)

ORDER (ORAL)

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The applicant has filed this OA thereby praying for quashing of the charge sheet dated 20.10.2006 (Annexure A/2) and impugned suspension order dated 12.06.2008 (Annexure A/1).

2. We have heard the learned counsel for the applicant. We are not inclined to quash the charge sheet at this stage as the applicant has approached this Tribunal belatedly and the inquiry proceeding must be at the stage of conclusion. Thus without expressing any finding on the merit of the case, the prayer of the applicant for quashing of the charge sheet dated 20.10.2006 (Annexure A/2) is declined.

3. Further grievance of the applicant is regarding quashing of the impugned suspension order dated 12.06.2008 (Annexure A/1). Learned counsel for the applicant submits that he has not filed statutory appeal before the Appellate Authority as in this case Respondent No. 4 is Appellate Authority and one of the allegations in the charge sheet is regarding the fact that he has mis-behaved with Respondent No. 4 on 19.10.2006. Thus according to the learned counsel for the applicant, Respondent No. 4 should be precluded from hearing the appeal of the applicant on the principle of natural justice.

4. We have given due consideration to the submission made by the learned counsel for the applicant. As per the law laid down by the Apex Court in the case of S.S. Rathore vs. State of M.P. AIR 1990 SC 10 while interpreting Sub Section 2 & 3 of Section 20 of CAT Act 1985, it was held that cause of action shall be taken into arise not from the date of order of the disciplinary authority but from the date of

the order of the Appellate Authority where a statutory remedy is provided entertaining the appeal or representation is made. Admittedly in the instant case, cause of action has not arisen in favour of the applicant as yet but we see considerable force in the submission made by the learned counsel for the applicant that Respondent No. 4 cannot act as Appellate Authority. In these circumstances, we are of the view that in case the appeal is filed by the applicant, in that eventuality, the appeal shall be heard by appointing an ad hoc Appellate Authority. Thus, Keeping in view the principle of natural justice, we are of the view that ends of justice will be met if Principal Account General shall function as an ad hoc Appellate Authority for the purpose of considering the appeal of the applicant against the impugned suspension order dated 12.06.2008 (Annexure A/1). Accordingly, the applicant is directed to file appeal before the Appellate Authority within a period of two weeks from today and Principal Accountant General, Jaipur shall dispose of the appeal of the applicant within a period of one month from the date of receipt of the appeal filed by the applicant.

5. With these observations, the OA is disposed of at admission stage.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ