

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

25.02.2011

OA No. 227/2009

None present for applicant.
Mr. D.C. Sharma, Counsel for respondents.

When the matter was listed on 15.02.2011, this Tribunal had passed the following order:-

"Present:

None present for applicant
Mr. Anupam Agarwal proxy counsel on behalf of the respondents.

From the material placed on record, it is evident that applicant has not filed statutory appeal. Thus in view of the law laid down by the Apex Court in the case of **S.S. Rathore vs. State of Madhya Pradesh (AIR 1990 SC page 10)**, the present OA cannot be entertained.

Let the matter be listed on 25.2.2011 on which date this Tribunal will pass appropriate order."

None has appeared on behalf of the applicant even today.

Admittedly the applicant has not availed statutory remedy. Even the applicant in Para No. 6 of the OA has stated that he could not prefer statutory appeal against the impugned order for want of relevant documents.

The respondents have filed reply. In the reply, they have stated that inquiry report has already been served upon the applicant along with the show cause notice. The applicant has deliberately not availed the appeal against the impugned order dated 01.09.2008 (Annexure A/1) as he has nothing to state in the appeal.

Thus in view of the judgment rendered by Constitution Bench in the case of **S.S. Rathore vs. State of M.P.**, AIR 1990 SC 10, the present OA cannot be entertained so long as the statutory remedy is not availed by the applicant.

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Accordingly, the present OA is disposed of with liberty reserved to the applicant to file statutory remedy against the impugned order passed by the Disciplinary Authority and in case such appeal is filed within a period of one month from the date of receipt of the copy of this order, the Appellate Authority shall entertained the same by passing a reasoned & speaking order.

With these observations, the OA shall stands disposed of with no order as to costs.

Anil Kumar
(ANIL KUMAR)

MEMBER (A)

M.L. Chauhan
(M.L. CHAUHAN)

MEMBER (J)

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