

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.3661/2014

New Delhi this the 30th March, 2016

**HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MR. SHEKHAR AGARWAL, MEMBER (A)**

Govind Ram, Asstt. Commissioner
Dept. of Food Supplies,
GNCT of Delhi,
S/o. Late Ram Lochan,
R/o. A-6, Transit Hostel Flats,
Rajpur Road, New Delhi-54.Applicant

(Argued by: Mr. M. K. Bhardwaj)

Versus

UOI & Ors. through

1. Union of India
Through its Secretary
Ministry of Home Affairs,
North Block, New Delhi-01.
2. Joint Secretary
Ministry of Home Affairs,
North Block, New Delhi-01.
3. Andaman & Nicobar Admn.
Through Chief Secretary,
Secretariat,
Port Blair-700001.
4. GNCT of Delhi
Through Chief Secretary,
Delhi Sachivalaya,
New Delhi-110 002.Respondents

(By Advocate : Ms. Anupama Bansal)

ORDER(ORAL)

Justice M.S. Sullar, Member (J)

The competus of the facts and material which needs a necessary mention for the limited purpose of deciding the question of maintainability of instant

Original Application (OA), is that in the wake of departmental proceeding, a penalty of withholding of one increment for one year without cumulative effect, was imposed on applicant, Shri Govind Ram vide impugned order dated 06/12.05.2014 (Annexure A-1) by the Disciplinary Authority.

2. Instead of filing the statutory appeal, the applicant has straightaway jumped to prefer the instant OA challenging the impugned Memorandum dated 12.12.2006 (Annexure A-1A) and impugned punishment order dated 06/12.05.2014 (Annexure A-1) in this Tribunal.

3. During the pendency of the OA, it revealed that applicant has also filed departmental appeal on 01.08.2014, which is presently pending before the Appellate Authority.

4. Meaning thereby, the applicant had filed the present OA without exhausting the statutory right of departmental appeal and the same cannot (legally) directly be entertained, as envisaged under Section 20 of the Administrative Tribunals Act, 1985 (for brevity “the Act). The mere fact that the previous Bench has directed the Appellate Authority to decide the departmental appeal vide interim order dated 11.01.2016, ipso facto, is not a ground, much less cogent, to by-pass the mandatory provisions of Section

20 of the Act, as contrary urged on behalf of the applicant.

5. Not only that, on the one hand the applicant has directly filed this present OA, and at the same time he has also preferred the appeal, which is still pending before the Appellate Authority. In other words, the applicant is simultaneously pursuing two separate remedies to claim the same relief in different forum, which, in our considered opinion, is not legally permissible. Thus, seen from any angle the present OA is premature and not maintainable at this stage.

6. In the light of the aforesaid reasons and without commenting further anything on the merits, lest it may prejudice the case of either side during the course of hearing of the appeal or any subsequent proceeding, the instant OA is hereby dismissed as premature.

Needless to mention that applicant would be at liberty to file the fresh OA after the decision of appeal. At the same time, Appellate Authority is again directed to decide the appeal in accordance with law within a period of 2 months from the date of receipt of a certified copy of this order, positively.

**(SHEKHAR AGARWAL)
MEMBER (A)**

**(JUSTICE M.S. SULLAR)
MEMBER (J)**

Rakesh