

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 4369/2011

This the 18th day of September, 2015

**Hon'ble Mr. Justice B.P. Katakey, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Jagdish Prasad
S/o Sh. Fakir Chand
R/o K-540, Tara Chand Colony,
Part-II, Mahipalpur
New Delhi-110037

-Applicant

(By Advocate : Shri R.A. Sharma proxy for Mr. Vikas Sharma)

Versus

1. Union of India through Secretary,
Ministry of Defence.
South Block, New Delhi.
2. Director General,
Quarter Master, General Branch,
Sena Bhavan,
New Delhi-11
3. The Commandant/Director,
Composite Food Laboratory, Asc.
S&T Complex, 7th Floor,
Colaba, Mumbai.
4. The Commanding Officer,
Composite Food Laboratory, Asc.
S&T Complex, 7th Floor,
Colaba, Mumbai.

-Respondents

(By Advocate : Mr. M.K. Bhardwaj for Ms. Priyanka Bhardwaj)

ORDER (ORAL)

By Shri B.P. Katakey, Member (J):

Heard Mr. R.A. Sharma, proxy counsel for Mr. Vikas Sharma, learned counsel for the applicant and Mr. M.K. Bhardwaj, proxy counsel for Ms. Priyanka Bhardwaj, learned counsel for the respondents.

2. The applicant has filed this OA challenging the order dated 26.07.2011 passed by the disciplinary authority i.e. Commanding Officer, imposing the penalty of dismissal of service and also the order dated 07.09.2011 dismissing the appeal preferred by him on 30.08.2011, by the same authority i.e. the Commanding Officer, who is the disciplinary authority.
3. The learned counsel appearing for the applicant referring to the order dated 26.07.2011 passed by the Commanding Officer and also dated 07.09.2011 passed by the same officer, has submitted that though the applicant has preferred an appeal before the Appellate Authority, the same however has been rejected by the disciplinary authority. The learned counsel, therefore, submits that the OA may be disposed of by directing the Appellate Authority to decide his appeal, upon setting aside the order dated 07.09.2011.
4. Mr. M.K. Bhardwaj, learned counsel for the respondents has submitted that since the appeal preferred by the applicant has been

disposed of by the disciplinary authority, the same would be placed before the appropriate Appellate Authority and necessary orders would be passed on such appeal.

5. It appears that the disciplinary authority i.e. Commanding Officer vide order dated 26.07.2011 imposed the penalty of dismissal of service of the applicant. A departmental appeal was thereafter preferred by the applicant on 30.08.2011. The same was also decided by the Commanding Officer who is the disciplinary authority, vide order dated 07.09.2011.

6. Since the appeal has not been placed before the appropriate appellate authority and the appeal has been rejected by the disciplinary authority, we set aside the aforesaid order dated 07.09.2011 and remit back the matter to the respondents for placing the appeal preferred by the applicant before the appropriate appellate authority for deciding the same by a speaking order. The same shall be done within a period of one month from the date of receipt of a copy of this order. It is needless to say that the order that may be passed shall be communicated to the applicant.

7. OA is disposed of. No costs.

(K.N. Shrivastava)
Member (A)

(Justice B.P. Katakey)
Member (J)

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