

## CENTRAL ADMINISTRATIVE TRIBUNAL

## CALCUTTA BENCH



No.O.A.350/01460/2015

Date of order : 17.11.2016

Present : Hon'ble Justice Mr. V.C. Gupta, Judicial Member  
Hon'ble Ms. Jaya Das Gupta, Administrative Member

SUBHASHIS ROY

VS.

UNION OF INDIA & ORS.  
(Labour & Employment)

For the applicant : Mr. K. Ghosh, counsel  
Mr. S. Banerjee, counsel  
For the respondents : Mr. S. Paul, counsel

ORDERPer Justice V.C. Gupta, J.M.

Heard Id. Counsel for the applicant and Id. Counsel for the respondents.

2. In this case enquiry was conducted and thereafter enquiry report was submitted to the Disciplinary Authority who after making disagreement with the enquiry report issued show cause notice to the applicant along with a copy of the Enquiry Report and the reasons for his disagreement vide Memorandum dated 20.08.2015(Annexure A-5).

3. It has been contended by the Id. Counsel for the applicant that the show cause notice dated 20.08.2015 to make representation against the disagreement and the enquiry report has been replied by the applicant on 08.09.2015 (Annexure A-6). It has been contended that no decision has been taken by the Disciplinary Authority on the representation of the applicant. The applicant has filed this case in apprehension that in case the Disciplinary Authority is allowed to take decision, he will dismiss the case of the applicant.

4. Reply has been filed by the respondents. The applicant has also filed rejoinder.

5. We have heard the Id. Counsel for both sides and perused the records.

6. It has been contended by the Id. Counsel for the applicant that he is challenging the entire proceedings starting from issuance of charge sheet till the date of issuance of show cause notice. On the contrary, Id. Counsel for the respondents submitted that the applicant participated in the enquiry and after conclusion of the enquiry in accordance with the procedure a copy of the Enquiry Report with disagreement note of the Disciplinary Authority was served upon the applicant and the applicant was directed to make a representation, if he so desired. It has been categorically submitted by the counsel for the applicant that the applicant made a representation, but that has not been disposed of.

7. Having considered the submissions of Id. Counsel for both sides, we are of the view that in such scenario the role of courts is very limited. When the enquiry was completed and the applicant actively participated therein, he is under a statutory obligation to follow the procedure as established under the rules. He cannot bypass those established principles of law. The remedy is available to the applicant to challenge the decision of the Disciplinary Authority as per rules. Therefore, we should not make any comment on the merit of the case. We are also of the view that the apprehension in the mind of the applicant regarding dismissal of his case by the Disciplinary Authority is not well founded.


8. It is yet to be decided by the Disciplinary Authority whether the representation given by the applicant has any substance or not. As the

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applicant has further remedy to challenge the decision of the Disciplinary Authority in accordance with the established procedure before a competent forum, no interference is warranted at this stage. The O.A. , therefore, lacks merit. Accordingly the interim order shall stand vacated. The respondents are directed to conclude the proceedings against the applicant expeditiously in accordance with law.

9. Accordingly the O.A. is disposed of. No order as to cost.

10. An urgent copy be given to the Id. Counsel for the parties on payment of usual charges.

  
(J. Das Gupta)  
Administrative Member  
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(Justice V.C. Gupta)  
Judicial Member