

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

This, the 09th day of July, 2018

Hon'ble Mr. Justice V.C. Gupta, Member (Judicial),
Hon'ble Mr. Devendra Chaudhry, Member (Administrative).

Original Application No. 332/00237/2018

Har Pal Singh, age about 48 years, S/o Sri Durga Prasad Singh, H.No. 19, Dabauli, Udhyog Nagar, Kanpur, P.S. Govind Nagar, Kanpur, U.P.

.....Applicant

By Advocate : Sri R.V. Singh.

Versus

1. Union of India through Secretary Home, Ministry of Home Affairs, New Delhi.
2. Registrar General of India, 2/A, Maan Singh Road, New Delhi, 110011.
3. Deputy Director, Directorate of Census Operation, Uttar Pradesh, Jangarna Bhawan, Plot No. C.C.-1, Sector, G, Aliganj, Lucknow-226024.

.....Respondents

By Advocate : Sri Rajesh Katiyar.

Alongwith

Original Application No. 332/00238/2018

Rakesh Kumar, aged about 33 years R/o Flat No. 3, Type-III, Census Colony, Sector-D, Jankipuram, Lucknow.

.....Applicant

By Advocate : Sri R.V. Singh.

Versus

1. Union of India through Secretary Home, Ministry of Home Affairs, New Delhi.

2. Registrar General of India, 2/A, Maan Singh Road, New Delhi, 110011.
3. Deputy Director, Directorate of Census Operation, Uttar Pradesh, Jangarna Bhawan, Plot No. C.C.-1, Sector, G, Aliganj, Lucknow-226024.

.....Respondents

By Advocate : Sri Rajesh Katiyar.

Alongwith

Original Application No. 332/00239/2018

Rakesh Kumar Singh, age about 35 years S/o Sri Avdesh Singh R/o Flat No. 34 Type-III, Janganna Colony, Sector-D, P.S. Jankipuram, Jankipuram, Lucknow.

.....Applicant

By Advocate : Sri R.V. Singh.

Versus

1. Union of India through Secretary Home, Ministry of Home Affairs, New Delhi.
2. Registrar General of India, 2/A, Maan Singh Road, New Delhi, 110011.
3. Deputy Director, Directorate of Census Operation, Uttar Pradesh, Jangarna Bhawan, Plot No. C.C.-1, Sector, G, Aliganj, Lucknow-226024.

.....Respondents

By Advocate : Sri Rajesh Katiyar.

Alongwith

Original Application No. 332/00240/2018

Ram Magan Pal, aged about 35 years S/o Sri Sukh Lal Pal R/o Flat No. 28 Type-III, Janganna Colony, P.S. Jankipuram, Jankipuram, Lucknow, U.P.

.....Applicant

By Advocate : Sri R.V. Singh.

Versus

1. Union of India through Secretary Home, Ministry of Home Affairs, New Delhi.
2. Registrar General of India, 2/A, Maan Singh Road, New Delhi, 110011.
3. Deputy Director, Directorate of Census Operation, Uttar Pradesh, Jangarna Bhawan, Plot No. C.C.-1, Sector, G, Aliganj, Lucknow-226024.

.....Respondents

By Advocate : Sri Rajesh Katiyar.

Alongwith

Original Application No. 332/00241/2018

Kaushal Kishor Narayan, age about 35 years S/o Sri Hriday Narayan Prasad, R/o Flat No. 42, Type-III, Janganna Colony, Sector-D, P.S. Jankipuram, Jankipuram, Lucknow.

.....Applicant

By Advocate : Sri R.V. Singh.

Versus

1. Union of India through Secretary Home, Ministry of Home Affairs, New Delhi.
2. Registrar General of India, 2/A, Maan Singh Road, New Delhi, 110011.
3. Deputy Director, Directorate of Census Operation, Uttar Pradesh, Jangarna Bhawan, Plot No. C.C.-1, Sector, G, Aliganj, Lucknow-226024.

.....Respondents

By Advocate : Sri Rajesh Katiyar.

ORDER [Oral]

By Hon'ble Mr. Justice V.C. Gupta, Member-J,

Heard the learned counsel for the applicant and learned counsel for the respondents at the admission stage and perused the record.

2. All the 5 cases are arising out of orders passed of suspension on the same date in contemplation of disciplinary proceedings. In all the matter, the common question of law and facts are involved hence they are disposed of by common order.

3. The Learned counsel for the applicants contended that no reason has been assigned in the impugned order for suspending the applicants. It is also a fact that no preliminary enquiry was held to prove prima facie case of misconduct on the part of applicants as such these orders of suspension are not sustainable.

4. Some references in this regard have been made by learned counsel for the applicant from text books. It was further contained that description of wrong committed or misconduct committed by the applicants too was not given in the impugned orders.

5. Learned counsel for the respondents pointed out that the reason for which the applicants were put under suspension has already been given and reason is that the inquiry is contemplated which is one of the reason within the provisions of Rule 10 (1) of CCS (CCA) Rules. It was further contended by learned counsel for the respondents that applicant in these cases are involved in a criminal case of manhandling and causing assault to the employees during working hours in the office premises. It was further contended that to maintain the discipline in the office is the responsibility of the Head of Office

and disciplinary enquiry can be initiated without any preliminary enquiry in the aforesaid circumstances.

6. It was further contended by learned counsel for the respondents that the order is appealable under Rule 23 of CCS (CCA) Rules. Hence, this Tribunal has no jurisdiction to entertain these OAs and the same are not maintainable for want of exhausting departmental remedy available under service rules.

7. Although the appeal is maintainable against the order but learned counsel for the applicant submitted that he do not want to invoke the remedy of appeal because the appeal arises only when order contains reasons therefore filing of appeal is not necessary to challenge the orders impugned before this Tribunal.

8. In our opinion it is not sufficient to come out of requirement of Section 20 of AT Act.

9. In these cases admittedly an F.I.R. has been lodged against the applicants for manhandling and assaulting the Government employee not only in the office hours but also within the office premises.

10. Reason as required in the relevant rules is available in the orders impugned.

11. It is also important to mention here that applicants in Para VI of OA declares that they have availed all remedies available under the service rules. This declaration of applicant is per se false.

12. Normally the Tribunal in such situation declined to entertain the application under Section 19 of AT Act but in the present case the applicants are not inclined to withdraw the OAs

to avail the departmental remedy of appeal under Rule 23 hence, we are of the view that all the OAs are liable to be dismissed as not maintainable.

13. Hence, these Original Applications are dismissed at the admission stage as not maintainable in view of non compliance of Section 20 of AT Act.

14. There shall be no order as to costs.

15. The copy of this order be placed in all the connected OAs.

(Devendra Chaudhry)
Member (A)

(Justice V. C. Gupta)
Member (J)

JNS

