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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO.1134/2003

New Delhi this the 7th day of May, 2003.

**HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI GOVINDAN S.TAMPI, MEMBER (A)**

Shri Naresh Chaturvedi, IAS
Managing Director
Food Corporation of India
R/o 321 Asiad Village
August Kranti Marg
New Delhi

...Applicant

(Shri Jayant Dass, Senior Counsel with
Shri Ajit Pudissery, Advocate)

vs.

1. State of West Bengal
Through its Chief Secretary
Writers Building
Calcutta-700 001.
2. The Secretary
P& AR Department
Govt. of West Bengal
Writers Building
Calcutta-700 001.
3. Shri R.N.Kali
Formerly Vigilance Commisiiioner
Through Vigilance Commission
Bikas Bhawan
Bidhan Nagar
Calcutta-700 091.Respondents.

O R D E R (ORAL)

Justice V.S.Aggarwal:-

Applicant (Naresh Chaturvedi) joined the Indian Administrative Service in 1970. Presently, he is posted as Managing Director, Food Corporation of India. By virtue of the present application, he seeks quashing of the Memo dated 9.8.2002 and also Memo dated 15.1.2003. As a result of the same, disciplinary proceedings have been initiated against the applicant.



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2. The learned counsel for the applicant contended that the disciplinary proceedings are mala fide at the behest of Respondent No.3. At this stage, they violate Rule 8 of the All India Services (Discipline and Appeal) Rules, 1969 (for short "the Rules"). Otherwise also, no fair opportunity had been granted to the applicant to file a proper reply; nor detailed particulars to permit the applicant to file a proper representation had been granted.

3. We have carefully considered the said submissions.

4. We know from the decision of the Supreme Court in the case of Union of India & Others Vs. Upendra Singh, (1994) 3 SCC 357 that at the stage when charges are framed, scope for interference by the Tribunal is limited. Tribunal would only interfere if on basis of the charge framed no misconduct or other irregularity can be said to have been made out or the charges framed are contrary to law.

5. The truth or otherwise of the charges can only be decided by the disciplinary authority in the first instance. The Supreme Court held as under:

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"6. In the case of charges framed in a disciplinary inquiry the tribunal or court can interfere only if on the charges framed (read with imputation or particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law. At this stage, the tribunal has no jurisdiction to go into the correctness or truth of the charges. The tribunal cannot take over the functions of the disciplinary authority. The truth or otherwise of the charges is a matter for the disciplinary authority to go into. Indeed, even after the conclusion of the disciplinary proceedings, if the matter comes to court or tribunal, they have no jurisdiction to look into the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be. The function of the court/Tribunal is one of judicial review, the parameters of which are repeatedly laid down by this Court. It would be sufficient to quote the decision in H.B. Gandhi, Excise and Taxation Officer-cum-Assessing Authority, Karnal v. Gopi Nath & Sons, 1992 Supp (2) SCC 312. The Bench comprising M.N. Venkatachaliah, J. (as he then was) and A.M. Ahmadi, J., affirmed the principle thus: (SCC p. 317, para 8)

"Judicial review, it is trite, is not directed against the decision but is confined to the decision-making process. Judicial review cannot extend to the examination of the correctness or reasonableness of a decision as a matter of fact. The purpose of judicial review is to ensure that the individual receives fair treatment and not to ensure that the authority after according fair treatment reaches, on a matter which it is authorised by law to decide, a conclusion which is correct in the eyes of the Court. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It will be erroneous to think that the Court sits in judgment not only on the correctness of the decision making process but also on the correctness of the decision itself."

With this being the position in law, at this stage, we are not dwelling into the eloquent argument of the learned counsel that the charges

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about certain amounts which we are not mentioning in detail, cannot be accepted and the applicant can explain the same. It can be gone into if subsequently the need arises but not at this stage.

6. So far as the violation of sub-rule (2) to rule 8 of the Rules is concerned, the plea put forward was that there are no grounds for inquiring into the alleged charges.

7. Once again, without dwelling into the details of the merits suffice to say that an opinion has to be formulated by the disciplinary authority and on a reading of the charges conveyed, it cannot be termed for purposes of the present order that no case is drawn or it violates the provisions of law. Therefore, no further opinion need be expressed.

8. Another limb of the argument was that the details of the facts had not been conveyed and, therefore, the applicant is prevented from putting up a proper reply and the reply of the applicant even had not been considered. Even if it be so, the applicant can indeed always raise the plea subsequently if need arises. We, therefore, had informed the learned counsel that the applicant may, if so advised, take part in the proceedings and bring correct facts to the notice

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of the concerned authorities. It is too early, therefore, and premature for this Tribunal to interfere.

9. As regards the mala fides imputed, once again if during the course of the inquiry, it is so established, indeed the matter can be examined, but at this stage on basis of the assertions, when it is not possible to do so, further opinion need not be expressed. It may be embarrassing. No opinion, therefore, is required to be expressed.

10. Resultantly, the present application being without any merit is dismissed in limine.

(Govindan S. Tampi)
Member (A)

/sns/

(V. S. Aggarwal)
Chairman