

**M.L. Khan Vs. Mcd and Others**

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**Court :** Central Administrative Tribunal CAT Delhi

**Decided On :** Mar-15-2012

**Judge :** S.C. Sharma, Acting Chairman & the Honourable Dr. Ramesh Chandra Panda, Member (a)

**Appeal No. :** OA 849 of 2012

**Appellant :** M.L. Khan

**Respondent :** Mcd and Others

**Advocate for Pet/Ap. :** For the Applicant: M.K. Bhardwaj, Advocate. For the Respondents: -----

**Judgement :**

ORAL:

S.C. SHARMA

1. Instant Original Application has been filed for the following reliefs:-

“(i)To quash and set aside the impugned charge memo dated 11.08.2004 and consequential punishment order dated 28.02.2011 with all consequent effects.

To declare the action of the respondents in initiating disciplinary action and punishing the applicant as illegal and issue further direction for giving all benefits i.e. promotion and seniority etc.

To allow the O.A. with exemplary costs and interest on arrears.

To pass any further order as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case.”

2. We have heard Mr. M.K. Bhardwaj, learned advocate for the applicant and perused the entire facts of the case. It has been contended on behalf of the applicant that disciplinary proceedings were initiated against him and the enquiry officer has submitted the report against the applicant and the disciplinary authority punished the applicant by awarding a censure entry. Applicant preferred an appeal before the appellate authority in order to challenge the order passed by the disciplinary authority but the appeal is lying pending for the last one year and the same has not been decided as yet. Hence, in view of the judgment of Hon'ble Supreme Court and in view of Section 20 of the A.T. Act out rightly this Original Application has been instituted without waiting for the outcome of the appeal. It has been provided under Section 20 of the A.T. Act that normally Original Application should not be filed without availing the alternative remedies. It has been stated on behalf of the applicant that the applicant has availed the alternative remedy by filing an appeal but the appellate authority is sleeping over the appeal and not taking any decision.

3. From the facts of the case, it is evident that only a censure entry has been awarded and it may be possible that the appellate authority may reconsider the order of punishment. But without the outcome of the appeal, it will not be appropriate to entertain the Original Application and it will be just and proper in the interest of justice to dispose of this Original Application by giving direction to the respondents to dispose of the appeal preferred by the applicant within a stipulated period.

4. Considering the facts and circumstances of the case, we dispose of this Original Application at the admission stage itself. Respondent no.1 is directed to decide the pending appeal of the applicant within a period of three months from the date when the copy of this order is produced before the respondent and the appeal will be disposed of by passing a reasoned and speaking order. If possible, as requested on behalf of the applicant, an opportunity of hearing shall be provided to

the applicant before passing order on his appeal. Applicant shall produce the copy of this order to the respondent no.1 at the earliest.

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