

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

TA/21/1/2018

HYDERABAD, this the 24th day of February, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Admn. Member



C. Srisailam,
So. C. Yadaiah,
Aged about 37 years,
Occ: Temporary Status Mazdoor,
O/o. SDE (Cable Construction), Gowliguda,
Hyderabad Telecom District,
BSNL, Hyderabad.

... Applicant

(By Advocate: Dr. A. Raghu Kumar)

Vs.

1. The Chief General Manager,
A.P. Telecom Circle, BSNL,
Doorsanchar Bhavan, Abids,
Hyderabad.
2. The Principal General Manager,
(BSNL), Hyderabad Telecom District,
Suryalok Complex, Gunfoundry,
Hyderabad.
3. The Sub-Divisional Engineer,
(Cable Construction) Gowliguda (BSNL),
Telephone Exchange Building,
Gowliguda, Hyderabad.
4. The Sub Divisional Engineer (Dir) (BSNL),
O/o. Principal General Manager,
Hyderabad Telecom District,
Suryalok Complex, Gunfoundry,
Hyderabad.

... Respondents

(By Advocate: Mr. M.C. Jacob, SC for BSNL)

ORDER (ORAL)**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman**

This case, in fact, reveals the weakness in the adjudicatory system, and the manner in which an employee, who faces serious charges, has taken advantage of it.

2. The applicant states that he joined the Department of Telecommunications, for short - DoT, on 01.11.1986 as a casual labourer and that he was conferred with the temporary status on 1.5.1994. The activities of the DoT were corporatized and BSNL was established. The applicant became the employee thereof.

3. An F.I.R., in Crime No. 205/1998 was registered against the applicant, alleging that he fabricated the Mazdoor Cards and other relevant documents. The applicant was also issued a Notice dated 27.02.1999 by the DoT. He is said to have admitted the allegation made against him vide his explanation dated 02.08.1999. Taking the same into account, an order was passed on 09.08.1999, disengaging him as casual labourer. It is stated that between 08.04.1999 & 15.04.1999, the applicant was under judicial custody.

4. The applicant filed O.A. No.95/2000, challenging the order of removal. The O.A. was disposed of on 29.05.2000 and the applicant was directed to be reinstated, with liberty to conduct departmental inquiry.

5. The applicant was issued a charge memo dated 24.08.2002 with two charges pertaining to the fabrication of Mazdoor Cards and failure to inform the factum of being arrested. He submitted his explanation and not satisfied

with that, the Disciplinary Authority appointed an Inquiry Officer. In his report dated 01.08.2005, the Inquiry Officer held the charges as not proved. The Disciplinary Authority exonerated the applicant through order dated 6.8.2005. The Principal General Manager passed an order dated 22.09.2005, cancelling the proceedings leading to the exoneration of the applicant and directing appointment of another Inquiry Officer and Presenting Officer.



6. The applicant filed Writ Petition No.2807/2006, challenging the proceedings of the BSNL. An interim order was passed by the learned Single Judge on 12.02.2006. The application to vacate the interim order was dismissed on 19.10.2006. Aggrieved by that, BSNL filed Writ Appeal No.104/2007. That was taken up for hearing on 29.01.2015. After hearing both the parties, a Division Bench of the Honøble High Court, took note of the submission made on behalf of the applicant that the inquiry can be directed to be completed expeditiously, preferably within six months, and disposed of the Writ Appeal accordingly.

7. The Writ Petition was taken up for hearing on 17.02.2017, and it was transferred to this Tribunal for adjudication.

8. We heard Sri B. Pavan Kumar, learned counsel for the applicant and Sri M.C. Jacob, learned counsel for the respondents, and perused the O.A. as well as the counter affidavit.

9. The proceedings were initiated against the applicant way back in the year 1999, alleging acts of fraud. He was acquitted by the Criminal Court, giving benefit of doubt. Though the Inquiry Officer held that the charges are not proved, a perusal of the report discloses that discussion was not

undertaken with reference to the particular records. The Disciplinary Authority also has simply passed an order, without even noticing the discretion between the exoneration and acquittal. The concluding portion of the order reads as under:



“Summarizing the findings of the IO and the observations of the disciplinary authority as above, the disciplinary authority concludes and delivers that the SPS will be exonerated of both the charges and will be acquitted of the charges, forthwith.”

10. The officer did not differentiate between exoneration and acquittal. Whole exercise was perfunctory. Faced with this situation, the 2nd respondent passed the impugned order, directing appointment of another Inquiry Officer and Presenting Officer.

11. The CCS (CCA) Rules apply to the service in BSNL. It is true that whether the exercise of power is under Rule 29 i.e. revision or under 29 (A), i.e. review, notice is required to be issued in case the concerned authority proposes to enhance the punishment. This is a typical case in which the authority did not propose infliction of punishment order or to enhance, the one imposed by the Disciplinary Authority. He simply wanted the matter, to be examined further. The requirement as to giving an opportunity to the applicant, may not be so relevant, having regard to the long journey of the proceedings and the semblance of concession by the applicant for continuance of the proceedings and conclusion thereof within a stipulated time.

12. What shocks the conscience of this Tribunal is that despite an opportunity having been given to the respondents to conclude disciplinary

proceedings, it is stated that they have not still completed them. In the process, the acts of fraud, if any committed, remain without being dealt with, in the disciplinary proceedings.



13. We, therefore, dispose of the T.A., directing that the Chief General Manager, the 1st Respondent herein, shall personally oversee the issue pertaining to the disciplinary proceedings against the applicant, and ensure that they are completed within a period of three months from today. The applicant shall be given an opportunity, to put forward his case. The procedure prescribed under law shall be adhered to in all respects. Any lapse in this behalf shall be taken a serious note of. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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