

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2265/1996

New Delhi this the 21st day of March, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

R.P.S.Rathi S/O Sukhbir Singh,
R/O 201, Madhuban Colony,
Canal road, Baraut,
Distt. Meerut.

... Applicant

(None present)

-Versus-

1. Union of India through
Secretary, Ministry of Communications,
Sanchar Bhawan,
New Delhi.
2. Divisional Engineer (Rural),
Telecom District,
Office of General Manager Telecom,
Meerut.
3. Deputy General Manager (Operations),
Office of General Manager Telecom,
Shastri Nagar,
Meerut.
4. General Manager Telecom,
Meerut Cantt,
Meerut.

... Respondents

(By Departmental Representative Shri Raj Kumar
Sharma, Sr. Telecom Operating Assistant (Legal Cell)
O/O G.M.T.D., Ghaziabad)

O R D E R (ORAL)

Shri Justice Ashok Agarwal:

Present O.A. seeks to impugn an order dated 10.10.1996 passed by the Deputy General Manager (Operations), Office of General Manager Telecom, respondent No.3 herein, directing disciplinary proceedings to continue against the applicant. Aforesaid order has been passed by the respondent No.3 in his capacity of being the reviewing authority.

2. Short facts leading to the filing of the present application are as follows :

Applicant at the material time was working as a Telephone Inspector. On 2.1.1993 an FIR was registered against him and one Raj Kumar under Sections 452/323/506 Indian Penal Code. The charge related to an incident which had occurred on the same day, i.e., 2.1.1993 when the applicant mounted an assault on one Shri Pawan Gupta, SDOP, Baraut. Applicant had also manhandled and misbehaved with Smt. Manju, wife of the aforesaid Pawan Gupta. It was, inter alia, alleged that the applicant had forcibly entered into the residence of the aforesaid complainant and misbehaved with his wife. When this was objected to, applicant beat the complainant with sticks and dandas.

3. Based on the aforesaid incident, applicant was served a chargesheet dated 7.1.1993 for holding disciplinary proceedings under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965. Applicant vide his defence contained in his letter dated 15.2.1993 denied the aforesaid charge. By an order passed on 27.4.1995, one Shri Kamal Kumar, D.E. (EWSD), Meerut was appointed as inquiring authority. Prosecution for the aforesaid offence punishable under Sections 452/323/506 IPC was lodged against the applicant before the Court of the Chief Judicial Magistrate, Meerut. Police, however, filed a final report before the said Magistrate stating that no case had been made out against the

accused. The learned Magistrate by an order passed on 7.1.1995 accepted the aforesaid report of the police and proceeded to discharge the applicant. Based on the aforesaid order of discharge, applicant vide his representation dated 5.7.1996 addressed to the enquiry officer prayed for dropping the disciplinary proceedings. The enquiry officer by his letter of the same date, i.e., 5.7.1996 addressed to the disciplinary authority recommended closure of the case and dropping the proceedings. The disciplinary authority by an order passed on 8.7.1996 accepted the aforesaid recommendation of the enquiry officer and ordered closure of the case.

4. The 3rd respondent who is the reviewing authority, in exercise of powers conferred upon him by Rule 29(3) of the CCS (CCA) Rules, 1965 set aside the order passed by the disciplinary authority on 8.7.1996 and directed that the enquiry be conducted by the very same enquiry officer from the stage where it was stopped by issue of the order dropping the proceedings. Aforesaid order passed by the reviewing authority on 10.10.1996 is impugned in the present O.A.

5. Applicant and his advocate are absent. The advocate representing the respondents is also absent. However, the representative of respondents is present. We have perused the record and we proceed to decide the O.A. on merits in the absence of the advocates of the contending parties under Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

16

6. In our view, the order impugned is fully justified and does not call for an interference in the present proceedings. As far as the criminal proceedings are concerned, the same are independent and will have no bearing in the instant disciplinary proceedings. Whereas the criminal prosecution seeks to impose an order of punishment for the offence committed, the disciplinary proceedings seek to impose an order of penalty for misconduct committed by the delinquent. As far as the aforesaid criminal prosecution is concerned, no trial was held; witnesses were not examined, and the case was closed on a statement made by the police. The report of the police has been accepted by the learned Magistrate and the prosecution has been dropped. No verdict on merits has been rendered.

7. As far as the disciplinary proceedings are concerned, the nature of proof which forms the basis for bringing home the charge against the delinquent is based on preponderance of probabilities, whereas in a criminal proceeding the charge has to be proved beyond reasonable doubt. Whereas the prosecution in the instant case has not chosen to examine the complainant, his wife and other witnesses and has chosen to close down the case, the said witnesses can well be examined in the disciplinary proceedings and a finding of guilt can yet be recorded against the applicant. In the circumstances, we find that the enquiry officer as also the disciplinary authority

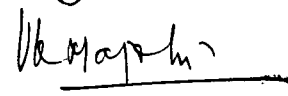
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17

have erred in dropping the disciplinary proceedings based on the dropping of the criminal prosecution against the applicant. Similarly we find that respondent No.3 was fully justified in ordering continuance of the disciplinary proceedings against the applicant.

8. Present O.A., in the circumstances, we find, is devoid of merit. The same is accordingly dismissed. There shall be no order as to costs.


(Ashok Agarwal)
Chairman


(V. K. Majotra)
Member (A)

/as/