

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1900 of 2000

New Delhi, this 18th day of September, 2000

(2)

Hon'ble Shri Justice Ashok Agarwal, Chairman  
Hon'ble Shri M.P. Singh, Member(A)

Ajatshatru Somani  
Director (TM & MC)  
Room No.708  
Office of the Chief General Manager  
Advanced Level Telecom Training Centre  
Ghaziabad (UP) 201002

... Applicant

(By Advocate: Shri D.K.Garg)

versus

1. Union of India through Secretary  
Ministry of Communications  
Department of Telecom  
Sanchar Bhawan  
20 Ashoka Road  
New Delhi-110001

2. The Assistant Director General  
(Vigilance)  
Ministry of Communications,  
Department of Telecom.  
West Block-I, Wing-2, Ground Floor  
R.K.Puram, Sector-1  
New Delhi-110066

... Respondents

ORDER(Oral)

By Justice Ashok Agarwal

In a disciplinary proceedings conducted against the applicant, he has been found guilty of the charge framed against him to the extent that he has failed to maintain proper records to ensure total transparency in the decision making and exhibited utter lack of devotion to duty, unbecoming of a government servant. The disciplinary authority, after holding the applicant guilty of aforesaid charge, has imposed a penalty of withholding of next increment due to <sup>him</sup> applicant for a period of one year without cumulative effect. Aforesaid order passed by the President, who is the disciplinary

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authority, on 14.8.2000, is impugned in the present OA. In our view, aforesaid order holding applicant guilty as also the consequent order of penalty, is just and proper and does not call for an interference in the present OA. It is not possible to uphold the contention advanced by Shri D.K.Garg who has appeared in support of the OA that the charge found proved against applicant does not form part of the charge framed against him. Applicant has been issued with a charge of greater amplitude but has been held guilty of a lesser charge. Aforesaid finding of guilt of a lesser charge, therefore, cannot amount to the said charge not having been framed against him. Charge found proved is <sup>an</sup> integral part of the charge framed against him. Said contention, in the circumstances, is rejected.

2. Shri D.K. Garg, has next drawn our attention to the following passage in the impugned order of 14.8.2000:

"Though the charged officer has contended that the policy guidelines do not prescribe that the minutes should contain all such details, it is the responsibility of a senior officer like the charged officer, to ensure total transparency in the decision making by recording the details about the number of applications received, reasons for either rejection or approval of applications, etc. a perusal of the minutes of the meeting held on 7.5.1994 shows that it simply mentions the names of the 29 allottees without any further details whatsoever. A Government Officer is not expected to function in such an arbitrary manner and without ensuring total transparency in the allotment. The charged officer committed a serious lapse by not maintaining records properly, relating to the allotment of PCOs, which has also raised doubts about his bona fides in allotment of PCOs..."

3. Based on aforesaid passage, Shri D.K.Garg has contended that the applicant could not have been held

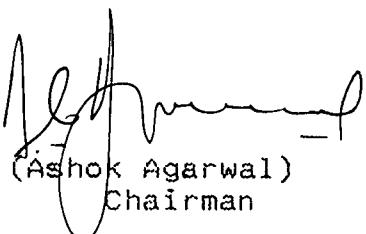
guilty when there are no policy guidelines prescribed for maintaining the minutes of the meeting. In our judgement, aforesaid contention is devoid of merit. ~~as~~ The disciplinary authority has found that a responsible officer like the applicant was expected to maintain the required details in respect of the allotment of PCOs. Failure to do so has been found to be a misconduct against him. In our view, no interference is called for with the aforesaid finding which has been recorded by the disciplinary authority in terms of the advice of the UPSC.

4. Similarly, the contention that the order of penalty of withholding of next increment due to the applicant is ~~arbitrary~~ ~~fallacious~~, is also not justified. As far as the UPSC is concerned, it had recommended the withholding of one increment. The order also amounts to withholding of one increment. If any clarification is required, we clarify that aforesaid order amounts to nothing else but the withholding of one increment for a period of one year without cumulative effect.

5. Present OA, in the circumstances, we find, is devoid of merit. Same is dismissed however with aforesaid clarification. No costs.

  
(M. P. Singh)  
Member(A)

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(Ashok Agarwalla)  
Chairman