

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/20/973/2014

Reserved on : 22.07.2020

Pronounced on : 19.08.2020

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



M. Sambasiva Rao, S/o. Chimpiraiah,
Aged about 52 years,
Occ: Sub Divisional Engineer (MDF & PP),
Ashoknagar Telephone Exchange, BSNL,
Guntur, Guntur District.

... Applicant

(By Advocate: Mr. B. Pavan Kumar, Advocate
representing Dr. A. Raghu Kumar)

Vs.

1. The Union of India rep. by its Secretary,
Department of Telecommunications,
Ministry of Communications and IT,
20 Ashoka Road, New Delhi -1.
2. The Bharat Sanchar Nigam Limited,
Rep. by its Chairman cum Managing Director,
BSNL Corporate Office, Barakumba Road,
Statesman House, New Delhi – 1.
3. The Chief General Manager,
AP Telecom, Bharat Sanchar Nigam Limited,
Door Sanchar Bhavan, Nampally Station Road,
Abids, Hyderabad.
4. The General Manager Telecom District,
Bharat Sanchar Nigam Limited, 1st Line,
Chandramouli Nagar, Guntur District.

... Respondents

(By Advocate: Mrs. K. Rajitha, Sr. CGSC
Mr. M.C. Jacob, SC for BSNL)

ORDER**Hon'ble Mr. B.V. Sudhakar, Admn. Member**

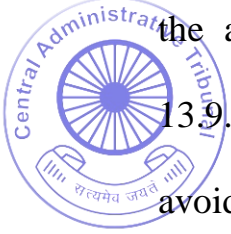
2. The OA is filed challenging the penalty imposed by the penalty of postponing the increment by the disciplinary authority and confirmed by the appellate authority.

3. Brief facts of the case are that the applicant while working as Sub Divisional Engineer was issued a charge memo on 13.9.2012 containing 2 articles of charge. The applicant claims that the charges have been framed vindictively and the imposition of penalty of postponing the increment with allied directions by the disciplinary authority and confirmed by the appellate authority is illegal, and arbitrary. Aggrieved the OA has been filed.

4. The contentions of the applicant are that he took appropriate action when informed of diesel shortage at Perecherla Telephone Exchange and his superior DE (R) Guntur was duly informed. At the exchange in question, the AC power failures are rare and using an alternator power can be supplied for a limited period of 4 to 5 hours but not when the power failure is for 15 hours as it happened on 19.7.2012. For similar failures in other Exchanges those concerned were not proceeded against on disciplinary grounds. Applicant was not ably supported by the higher authorities in taking remedial measures by making the vehicle available to procure HSD (High Speed Diesel) oil. Superior authorities after seeking his explanation have warned him on 25.7.2012 & 26.7.2012 but made the same issue as a part of the charge. Respondent authorities have singled him out for a series of vindictive actions like claiming that he was often going on medical leave albeit it was the

respondents who did not allow him to join duty by curtailing medical leave on the pretext of seeking 2nd medical opinion, downgrading of ACRs etc.

5. Respondents contradict the submissions of the applicant by affirming that the applicant was proceeded on disciplinary grounds vide charge memo dtd. 13.9.2012 for his alleged negligence in not procuring HSD oil well in advance to avoid uninterrupted functioning of Telephone exchange and cell BTs at Perecherla and for his habit of taking leave when important assignments are given. Applicant did not take effective measures even after being aware of the shortage of HSD as per records maintained by the (Telecom Technical Asst.) TTA. The power shortage was only for 8 hours on 19.7.2012 and there was no HSD available at the exchange. Even though the vehicle allotted on a sharing basis was available on 18.7.2012 it was not utilized to procure required HSD though it was in acute shortage. On 19.7.2012, when the exchange problem was on hand applicant sought permission of the senior officials to visit the hospital for severe headache and during A.P legislative Assembly elections, he applied for medical leave for 20 days on 20.4.2012 which was referred for second medical opinion in view of the necessity to attend to election work. Even when reconnection mela was announced by the CGMT, which was time bound, applicant went on leave. After receipt of applicant's explanation to the charge memo on 06.10.2012, penalty of postponing of the next increment for 2 years without cumulative effect and without earning any increment during the punishment, was imposed on 1.12.2012 by the disciplinary authority. Appeal dt. 26.12.2012 preferred by the applicant was rejected by the appellate authority vide order dated 08.05.2013. Remedy of revision petition to the Chairman/M.D BSNL was not availed.



6. Heard both the counsel and perused the pleadings on record.

7. I. The applicant was imposed the penalty of postponing of next increment for a period of 2 years without cumulative effect with a further direction that no increment would be earned during the currency of the punishment for not taking steps to supply High Speed Diesel (HSD) to Perecherla telephone exchange in time and frequently going on leave/medical leave when important works were assigned. The power failure register (Annexure R-1) maintained in respect of Perecherla exchange indicates that the A.C. power failure was for 8 hours on 19.7.2012 and not 15 hours as claimed by the applicant. Besides, the power failures from 9.7.2012 till 20.7.2012 fluctuated between 3 hours to 8 hours revealing that the power failures at the exchange were common contrary to what has been claimed by the applicant that the power failures were rare. Log book entries (Annexure R-II) maintained by the Telecom Technical Assistant has entries in regard to low stock of diesel from 14.7.2012 to 18.7.2012 with nil stock on 19.7.2012. It is the responsibility of the applicant to maintain the telephone exchange by taking necessary action as deemed fit by going through relevant official records and in the instant case, action was wanting on his behalf. Even the shared vehicle No. AP 15 W 6877 was available on 18.7.2012 but he did not use it to procure HSD for Perecherla and on 19.7.2020 he sought permission from superiors to visit the hospital for severe headache. It is to be noted that on 19.7.2020, there was no HSD at Perecherla exchange adversely effecting public services. During A.P. assembly elections which is a sensitive period when officers of the grade of the applicant are expected to be alert, take on additional responsibility and ensure timely action, he applied for medical leave for 20 days from 20.4.2012 and therefore, the respondents directed applicant for 2nd medical



opinion. We do not find anything erroneous in the decision of the respondents to do so as rules provide for such action to be taken and more so in circumstances described. Even in respect of reconnection mela which is time bound the applicant applied for medical leave from 3.8.2012 to 11.8.2012 as per the reply statement.



Applicant has not filed any rejoinder refuting the above contentions of the respondents. In regard to the adverse entries, a separate OA has been filed and hence requires no comment at this juncture of time. Issue of warnings to the applicants by the superiors in regard to the issue in question is no bar to frame the charge memo in question.

II. Thus, as seen from the above, it is evident that the applicant who has been working in a responsible position has not taken required measures to ensure that the Perecherla telephone exchange worked smoothly and he did apply for leave during important occasions like assembly elections, reconnection mela. It is the duty of the applicant to execute responsibilities assigned with commitment and sincerity rather than try to discover reasons for his failure like claiming that others have not been penalised for similar failures in exchanges. Disciplinary action is initiated for a variety of reasons particularly when public interest is adversely impacted as is seen in the instant case. In the present case applicant was not just charged for not supplying diesel in time to the telephone exchange but also for frequently going on leave when important assignments are to be handled. Respondents have acted within the ambit of rules after providing adequate opportunities to the applicant to respond. Hence, it cannot be said that the respondents have been repeatedly vindictive towards the applicant.

III. Therefore, in view of the aforesaid circumstances, we find no merit in the OA and hence, is dismissed with no order as to costs.



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

pv/evr

(ASHISH KALIA)
MEMBER(JUDL.)