

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/20/1027/2014

HYDERABAD, this the 18th day of September, 2020

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



K. Mohan Raju, MES No.147717,
S/o. Late Subbaiah, Aged about 53 years,
Occ: Mate Electrical, O/o. AGE E/M No.1 (NS),
104, Area Industrial Estate, (post),
Visakhapatnam.

... Applicant

(By Advocate: Mrs. Anita Swain)

Vs.

1. The Union of India rep. by its
Secretary, Ministry of Defence,
South Block, Post DHQ,
New Delhi – 110 011.
2. The Engineering -in- Chief,
Rajaji Marg, Kashmir House,
Post Army Headquarters,
DHQ, New Delhi – 100 011.
3. The Chief Engineer (Navy),
Station Road, Waltair,
Visakhapatnam – 530 004.
4. The Commander,
HQ, Commander Works Engineer,
Visakhapatnam – 530 004.
5. The Garrison Engineer (Naval Services),
Naval Base Post, Visakhapatnam – 530 005.

... Respondents

(By Advocate: Mr. M. Brahma Reddy, Sr. PC for CG)

O R D E R (ORAL)**Hon'ble Mr. B.V. Sudhakar, Admn. Member**

Through Video Conferencing :

2. The O.A. is filed, challenging the rejection order issued by the 3rd respondent, confirming the penalty order of the 4th respondent, imposing the penalty of reversion of the applicant from the grade of Electrician (Skilled) to the grade of Electrician (Mate).

3. The brief facts of the case are that the applicant was appointed as Mazdoor on 19.7.1982 and was promoted as Mate (Electrical) on 29.9.1997. Thereafter he was promoted as Electrical (SK) on 24.10.2002. Another promotion was given to him to the post of Highly Skilled (Electrical) Grade-II on 23.6.2009. The applicant was issued a show cause notice on 29.11.2008 in regard to providing electricity to a contractor without the permission of the superiors. He submitted an explanation on 20.12.2009. On receipt of the explanation, the show cause notice was cancelled on 27.12.2009 and a fresh show cause notice was issued on the same day. The applicant once again replied on 21.1.2009. Thereafter, based on the reply, a charge memo was issued on 25.3.2009. The applicant replied to the charge memo on 10.4.2009 and thereafter I.O. & P.O. were appointed on 14.9.2009 for inquiring into the matter. The applicant moved a bias petition against the Inquiry Officer on 10.10.2009. The Disciplinary Authority proceeded with the inquiry and imposed the penalty of reversion from the grade of Electrician (Skilled) to the

grade of Electrician (Mate), for an unspecified period on 19.3.2010. The applicant made an appeal on 17.5.2010 and when the appeal was not disposed of, he approached this Tribunal in O.A. No.686/2011, which was disposed on 27.8.2013, setting aside the order of the Disciplinary Authority and directing the respondents to dispose of the appeal of the applicant by a speaking order. The Appellate Authority rejected the appeal and confirmed the orders of the Disciplinary Authority on 17.7.2014. Aggrieved over the same, the O.A. has been filed.

4. The contentions of the applicant are that initiation of disciplinary action under Rule 16 and conducting inquiry under Rule 14 for imposing a major penalty is illegal. The imposition of a major penalty under Rule 11(vi) by an incompetent authority, who is not the Disciplinary Authority, is irregular. Without disposing the bias petition made on 9/10.10.2010, deciding the disciplinary case against the applicant is unfair. The applicant also alleges that the documents mentioned in the charge memo were not supplied to him, while conducting the inquiry. The Disciplinary Authority giving direction to the Inquiry Officer is against rules. Without supplying the I.O. report to the applicant and imposing the penalty, based on an ex-parte inquiry is illegal. Moreover, the respondents have not followed the relevant procedures laid down from the issuance of charge memo till the rejection of the appeal, which is violative of Articles, 14, 16, 21 & 311 of the Constitution. The rejection of the appeal was also without any application of mind. The conduct of the inquiry by the Inquiry Officer is also totally violative of the procedures laid down since the applicant was not given an opportunity to cross examine the witnesses during the inquiry. The

conclusion of the respondents is based on no evidence. The punishment imposed is harsh. The Tribunal has set aside the order of the Disciplinary Authority and the Appellate Authority confirmed the same, thereby compelling the applicant to approach the Court.

5. In the reply statement, the respondents stated that the applicant while working as Electrician (Skilled), was issued a charge memo for giving illegal power connection to a private contractor without the permission of the department. The charges levelled against the applicant have been established and the Disciplinary Authority has awarded the punishment, downgrading him to a lower post of Electrician (Mate) on 19.3.2010. The penalty imposed on the applicant was reversion to the post of Electrician (Mate) in the grade of Rs.1800/- in the pay band of Rs.5200-20200/- until he is found fit after a period of 5 years from the date of the order. It was further ordered that in case of re-promotion, he will not re-gain his original seniority in the higher post which has been assigned to him prior to the imposition of the penalty. Aggrieved, the applicant filed O.A. No.686/2011. The Tribunal set aside the order of penalty imposed by the Disciplinary Authority and remanded the matter to the Appellate Authority with a direction that the Appellate Authority himself has to pass a detailed speaking order, considering all the contentions raised by the applicant in the appeal. The Appellate Authority examined the appeal dated 17.5.2010 submitted by the applicant and found that the issues raised by the applicant are irrelevant since he had agreed to the fact that an unauthorised electric connection was given to a private contractor, which implies that there has been misappropriation of Government funds. Moreover, the applicant never attended to the disciplinary proceedings

despite of repeated directions, resulting in the Board of officers finalizing the inquiry ex-parte. Further, the Appellate Authority examined the punishment awarded by the Disciplinary Authority, by reckoning the objections raised by the applicant and modified the punishment as until found fit after 5 years. In this way, the Appellate Authority confirmed the punishment imposed on the applicant with the change cited. In the meanwhile, the applicant filed C.P. No.127/2014 in O.A. No.686/2011, which was disposed of by the Tribunal, keeping in view the fact that the appeal was disposed of.

6. The applicant filed a rejoinder, wherein the applicant has reiterated that in the appeal four grounds have been raised namely, lack of jurisdiction, procedural defects, imposing a penalty which is double jeopardy in nature and violations of principles of natural justice. The applicant also submitted that an order dated 30.6.2009 wherein it is shown that he was promoted as Highly Skilled Grade Electrician.

7. Heard Smt. Anita Swain, learned counsel appearing for the applicant and Sri M. Brahma Reddy, learned Senior Panel Counsel appearing for the respondents, and perused the pleadings on record.

8. The issue under dispute is about the punishment imposed on the applicant in reducing him from the grade of Electrician (Skilled) to the grade of Electrician (Mate). The applicant aggrieved over the punishment, approached this Tribunal in O.A. No.686/2011, wherein the Appellate Authority was directed by the Tribunal to examine the appeal of the applicant and issue a detailed speaking order. Accordingly, the Appellate Authority, after going through the appeal, confirmed the penalty imposed by the Disciplinary Authority with a slight modification. Thereafter, the applicant

filed Contempt Petition No.127/2014 in O.A. No.686/2011, which was disposed of by the Tribunal, keeping in view the fact that the appeal was disposed of by the Appellate Authority as per the directions of the Tribunal.

The applicant has now filed the instant O.A., taking similar grounds which were already taken in the earlier O.A. Since the aspects of Disciplinary Authority not following the principles of natural justice, etc., were already examined in the previous O.A., it would not be appropriate for the Tribunal to go into those issues once again. However, the applicant has pleaded that he has been promoted as Electrician (Highly Skilled) from the grade of Electrician (Semi-Skilled). This fact was denied by the respondents in their reply statement. Rebutting their denial, the applicant produced a promotion order dated 30.6.2009, which shows that he was promoted to the grade of Highly Skilled Electrician. The respondents categorically stated that they have verified the records and no such promotion was granted to the applicant. Therefore, we do not know whether the document produced by the applicant is genuine and, therefore, in the fitness of things, it would be appropriate for the Tribunal to remit the case back to the respondents to examine the genuineness of the document submitted and, thereafter review the penalty imposed on the applicant. The review of the penalty would be at the level of the Appellate Authority. We are of the view that justice would be rendered if the Appellate Authority goes through the document, which speaks about the promotion of the applicant to the grade of Highly Skilled Electrician and thereafter, decide the penalty to be imposed on the applicant as per the



relevant rules and in accordance with law. The above exercise shall be completed within three months from the date of receipt of this order.

With the above direction, the O.A. is disposed of. No order as to costs.



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

(ASHISH KALIA)
MEMBER (JUDL.)

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