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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O. A. NO. 1520/90

New Delhi, 8<sup>th</sup> September, 1994

CORAM :

THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

THE HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

I. D. Sharma,  
R/O House No. L-10,  
Gali No. 12, Brahampuri,  
Delhi - 53.

... Applicant

By Advocates Shri S. M. Ashri with Shri Ravi Ashri

Versus

1. Union of India through  
Secretary, Ministry of  
Communications, Sanchar Bhawan,  
New Delhi.
2. General Manager, NTR,  
Deptt. of Telecommunications,  
Kidwai Bhawan, New Delhi.
3. Director Telegraph Services,  
Deptt. of Telecommunications,  
'NTR' Tax Bldg, New Delhi.
4. Chief Superintendent,  
Central Telegraph Office,  
New Delhi.

... Respondents

By Advocate Shri Madhav Panikar

O R D E R

Shri S. R. Adige, Member (A) —

In this application, Shri I. D. Sharma, Section Supervisor, Central Telegraph Office, New Delhi, has impugned the Director Telegraph Services (NTR), New Delhi's penalty order dated 5.7.1988 (Annex.-2) removing him from service with immediate effect, which has been upheld in appeal vide order dated 12.5.1989 issued by Chief General Manager (NTR), New Delhi (Annex.-3).

2. Shortly stated, the applicant received a memorandum of charges dated 7.11.1986 (Annex.-1) signed by Shri Sarwan Singh, Asstt. Chief Suptd. (G-II), Central

Telegraph Office, New Delhi stating that he proposed to hold an inquiry against the applicant under Rule 14 of the C.C.S. (C.C.A.) Rules, 1965 on the charges that the applicant had misappropriated Government money amounting to Rs. 1,38,182.55 by mutilating office record and arranging payments for non-entitled departmental officials with mala fide pecuniary motives.

3. Although Shri Sarwan Singh had issued the memo of charges stating that he proposed to hold the inquiry, it actually appears to have been conducted by Shri S. R. Singh, Assistant Engineer, Office of General Manager Telephones, New Delhi (Ann. 2-A) who held the charges against the applicant proved. Accepting those findings, the Director Telegraph Services (NTR), New Delhi passed impugned penalty order which was upheld in appeal, against which the applicant has now come before the Tribunal.

4. The First ground taken by the applicant's counsel Shri S. M. Ashri is that the disciplinary proceedings are ab initio void inasmuch as the memo of charges was issued by Shri Sarwan Singh, Asstt. Chief Suptd. (G-II), CTC (a Group 'B' Officer) who was not competent to issue the same as he was not at all the prescribed disciplinary authority for imposing even a minor penalty, let alone a major one. According to him, the prescribed disciplinary authority is the Director, Telegraph Services (NTR) himself. This point was specifically raised in the appeal petition filed by the applicant and was rejected by the appellate authority on the ground that the chargesheet was issued in accordance with Rule 13 (2) of C.C.S. (C.C.A.) Rules

and there was no violation of the Rules as alleged by the applicant. In the reply filed by the respondents also, it has been stressed that Shri Sarwan Singh was empowered to impose the penalty specified in clauses (i) to (iv) of Rule 11 C.C.S. (C.C.A.) Rules, as specified in the schedule to the said rules, and was thus competent to serve the memo of charges under Rule 14 C.C.S. (C.C.A.) Rules. We are inclined to agree with this view, and, therefore, this argument advanced by the learned counsel for the applicant is rejected.

5. The second ground taken by the applicant is that although the memo of charges stated that it was the issuing authority of the chargesheet (Shri Sarwan Singh, Asstt. Chief Suptd G-II) who proposed to hold the inquiry, the inquiry was actually not held by him but by an inquiry officer appointed by him, viz., Shri S. R. Singh, Asstt. Engineer. From a perusal of the detailed order passed by the Director Telegraph Services it appears that Shri S. R. Singh, Asstt. Engineer was appointed as the inquiry officer. Shri S. R. Singh himself in his inquiry report stated that he was appointed as I.O. by the disciplinary authority, viz., Asstt. Chief Suptd. (G-II) vide order dated 24.12.86. As the Asstt. Chief Suptd. was a disciplinary authority competent to institute disciplinary proceedings against the applicant for imposition of a major penalty, he was also competent to appoint Shri S. R. Singh, Asstt. Engineer as I.O. under Rule 14 (2) C.C.S. (C.C.A.) Rules. This argument has also been covered by the appellate authority in that portion of his order wherein it has been stated that there has been no violation of Rule 13 (2) of the C.C.S. (C.C.A.) Rules, and hence this argument also fails.

6. Thirdly, it has been argued by Shri Ashri that the Director Telegraph Services, who passed the penalty order <sup>did</sup> not applied its mind and there was no exercise of his opinion. We have gone through the penalty order and are unable to accept Shri Ashri's contention that there has been no application of mind on the part of the Director Telegraph Services. The I.O. himself recorded a detailed order and the Director Telegraph Services in its impugned order has highlighted the salient features of the inquiry report and accepted the I.O.'s conclusions. Hence, this ground has also to be rejected.

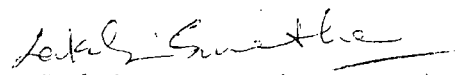
7. Next, it has been urged that no fresh notice was issued for imposition of a major penalty. No such fresh notice is required to be issued as is clear from Rule 15 (4) of the C.C.A. Rules, and hence, this ground also fails.

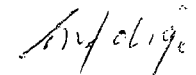
8. It has been next urged that the appellate order is not a detailed and speaking order. We have perused the appellate order and are not persuaded to agree with this argument. The points about the disciplinary proceedings being ab initio void, and the inquiry officer not being properly appointed, have been dealt with by the appellate authority in its order, and in so far as the contents of the charges are concerned, has stated categorically that the objections taken by the applicant are merely repetition of the stand taken by him before the I.O. and his allegations of bias against the I.O. are wholly unfounded. If the applicant alleges bias against the I.O. he should have filed an

application at the appropriate stage itself, but he did not do so. Hence, this ground also fails.

9. Lastly, it has been urged that the reply of the respondents has not been filed on affidavit after swearing in oath and that it is not clear as to whom the reply is on behalf of. The reply has been signed by the Asstt. Chief Suptd. (G-II), Central Telegraphs Office, New Delhi, and must, therefore, be taken to be on behalf of the respondents. While it is true that no affidavit has been filed, the reply cannot be rejected merely on grounds of this technicality.

10. In the facts and circumstances of the case, as discussed above, we see no reasons to interfere with the impugned orders <sup>and in</sup> in this application. <sup>In the</sup> The same is accordingly dismissed. No costs.

  
( Mrs. Lakshmi Swaminathan )  
Member (J)

  
( S. R. Adige )  
Member (A)

/as/