

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

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O.A./Tax No.2464 of 1992

Decided on: 2.11.98

Mohd. Raghib .....Applicant(s)

(By Shri M.L. Chawla Advocate)

Versus

U.O.I. & Others .....Respondent(s)

(By Shri R.P. Aggarwal Advocate)

CORAM:

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

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

1. Whether to be referred to the Reporter  
or not? 15

2. Whether to be circulated to the other  
Benches of the Tribunal?

(K. MUTHUKUMAR)  
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2464 of 1992

New Delhi this the <sup>2<sup>nd</sup></sup> day of <sup>November</sup> ~~October~~, 1998

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)  
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Mohd. Raghob  
S/o Shri Mohd. Amir  
R/o B-418 Gali No.10, Ghonda North,  
Delhi-53.

...Applicant

By Advocate Shri M.L. Chawla.

Versus

1. Union of India  
(Through the Secretary,  
Ministry of Communication,  
Sanchar Bhawan,  
New Delhi.)
2. The Director-General,  
Department of Telecommunication,  
Sanchar Bhawan,  
Ashok Road,  
New Delhi-55.
3. The Chief General Manager,  
Maintenance NTR,  
Khurshidlal Bhawan,  
Janpath,  
New Delhi-55.
4. The Chief Superintendent,  
Central Telegraph Office,  
Eastern Court, Janpath,  
New Delhi-55.

..Respondents

By Advocate Shri R.P. Aggarwal.

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

This application is directed against the impugned orders of the respondents imposing the penalty of compulsory retirement on the applicant in pursuance of the disciplinary proceedings initiated against him. The appeal and the revision petitions have also failed.

2. Facts briefly stated are that the applicant while working as Telegraphist under the respondent No.4 was charged of having committed an act of misconduct/indiscipline inasmuch as he had drawn Rs.20,492.62 fraudulently by way of unpaid wages bills which were not due to him, with the mala fide and illconceived motive and thereby indulged himself in the malpractice deliberately, causing heavy loss of revenue to the department. In the enquiry, he was found guilty of the charge and the impugned orders of the disciplinary, appellate and revisional authorities followed.

3. The main grounds taken by the applicant are as follows:-

(i) The respondents denied him the similarity of treatment meted out to others similarly placed in the same department.

(ii) He was not offered an opportunity of being heard before accepting the findings of the Enquiry Officer.

(iii) The appellate authority did not appreciate all the contentions raised by the applicant in his appeal and the revisional authority has also failed to appreciate his contentions.

(iv) The punishment is too harsh as it has deprived him and the members of his family the very means of their livelihood.

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4. We have heard the learned counsel for the parties and have perused the record.

5. The learned counsel for the applicant stressed on the following aspects, which according to him, vitiated the enquiry. The respondents relied mainly on the reconstructed Register of unpaid amounts but no original record of undisbursed bills were produced in the enquiry. The respondents subsequently reconstructed the unpaid Register. The learned counsel, however, conceded that the applicant had admitted having received certain payments on the basis of his signature on certain bills but there was no fraudulent intention in the matter. He argued that the respondents displayed the list of people whose payments were left unclaimed on the notice board and he had gone and obtained the payments on certain bills on a bona fide belief that he had not received them, and they were due to him. It was, therefore, not correct on the part of the respondents to charge him for having committed a grave misconduct fraudulently. This aspect of fraudulent claim has not been proved in the enquiry also. It is further contended that according to the provisions of the P&T Manual Volume III, the appellate authority for the applicant was General Manager whereas this appeal was disposed of by the incompetent authority who was only the Director of Telegraphs. The learned counsel further argued that the respondents had in fact recovered more than Rs.11,000/- even before the start of the enquiry and he was even ready to repay the alleged

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over-payment but even in cases where the Enquiry Officer himself ~~could~~ had observed that the signature was not that of the applicant, these amounts were included in the overall alleged overpayments.

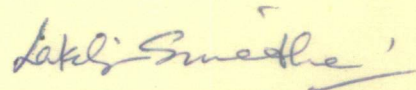
6. From the material including the P&T Manual placed before us, we find that for all the posts other than Telegraph Traffic Supervisor, Telegraphs Masters, Selection Grade Telegraph Master, Ministerial Staff in Selection Grade, the Director of Telegraphs is shown to be the appellate authority. We, therefore, have to reject the contention of the learned counsel for the applicant that the appellate authority was incompetent at the time of passing such order. In regard to the other contention of the applicant that the original record was not produced in the enquiry and they relied on the reconstructed register, we find that there is no such pleadings of the applicant. Even otherwise from the enquiry report we find that the Accounts Officer stated in cross-examination, the entries in the Register were checked with reference to the vouchers, and the vouchers and additional documents were produced during the enquiry, and the unpaid register was not prepared on the basis of supplementary bills/vouchers. We also find that the appellate authority had dealt with this matter in detail adequately. It is also seen from the enquiry that all the 40 vouchers had been actually produced and the entries in respect of all the 48 vouchers were made in the cash book. The applicant had participated in the enquiry and had examined the witnesses. We are also not persuaded by the contention of the applicant that the respondents have treated

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different persons involved in this case differently in the matter of imposing punishments. Courts/Tribunals cannot sit in appeal over the orders passed by the disciplinary/appellate authorities. We are satisfied that the procedure of enquiry established under law and the principle of natural justice had been duly followed in the enquiry. The disciplinary, appellate and revisionary authorities have passed detailed speaking orders. Considering all this, it cannot be said that the enquiry has been vitiated or that the impugned orders disclose any bias or mala fide. In the facts and circumstances of the case, we do not find any reasonable/interference with the impugned orders.

7. In the light of the above, we do not find any merit in the application and the same is, therefore, dismissed. No order as to costs.

  
(K. MUTHUKUMAR)  
MEMBER (A)

  
(MRS. LAKSHMI SWAMINATHAN)  
MEMBER (J)

Rakesh