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(Court No.III)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

....

Original Application No. 511 of 1996

this the 7th day of February 2002.

HON'BLE MR. RAFIQ UDDIN, MEMBER(J)
HON'BLE MR. C.S. CHADHA, MEMBER(A)

Jagdish Bahadur Singh, aged about 37 years, S/o Sri S.B. Singh,
presently posted as Divisional Engineer (phones), Bena Jhavar,
Kanpur Telephone Exchange, Kanpur.

Applicant.

By Advocate : Sri Vikas Bhudwar for Shri S. Agrawal.

Versus.

1. Union of India through the Secretary, Ministry of
Communication (Department of Telecommunication)
West Block 'I' Wing-II Ground Floor R.K. puram, New D
New Delhi.
2. The Chief General Manager Telecom, U.P. East Circle,
Lucknow.

Respondents.

By Advocate : Sri Amit Sthalekar.

O R D E R (ORAL)

RAFIQ UDDIN, MEMBER(J)

The applicant has filed this O.A. for quashing of the
order dated 31.1.1996 (Annexure-1 to the O.A.). By the said
order dated 31.1.96 the order of punishment has been passed
whereby the next increment due to the applicant has been
withheld for a period of five years without commulative
effect.

2. Briefly stated the facts of the case are that the
applicant was directly appointed in the Indian Telecom
Service (Group 'A') through the Union Public Service Commission
(UPSC in short) and was appointed in July '86 on the post
of Asstt. Divisional Engineer (Telecom) in the Junior Time

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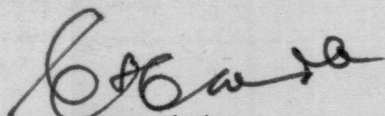
Scale. The applicant in the month of Janu:94 received a letter dated 14.1.94 issued by the office of the respondent no.2 annexing a chargesheet dated 12.11.93 containing six charges. The applicant submitted a detailed reply to the aforesaid chargesheet dated 12.11.93. Thereafter, the applicant received the impugned order dated 31.1.96.

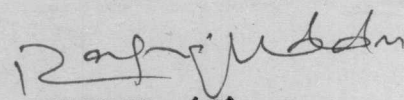
3. The applicant has challenged the validity of the impugned order mainly on the ground that the order is in the nature of major penalty for which a departmental enquiry is necessary, but the respondents have passed the impugned order following the procedure under Rule 16 of CCS (CCA) Rules, which is patently illegal.

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

5. The respondents have clearly admitted that in the present case that no enquiry was held and order of withholding the next increment for a period of five years without cumulative effect is not in conformity with the provisions of Rule 16 (1-A) of CCS (CCA) Rules 1965. However, the learned counsel for the respondents has mentioned that a reference was made to UPSC ^{to which} and was advised to modify the penalty of withholding of increment for a period of three years without cumulative effect ^{may be imposed}. But considering the facts and circumstances of the case, admittedly, the impugned order is illegal and against the rules, therefore, the same is liable to be quashed.

6. We accordingly allow this O.A. and quash the impugned order dated 31.1.1996. No costs.


MEMBER (A)


MEMBER (J)

GIRISH/-