

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 19th day of Nov.2001.

CORAM : HON. MR. S. DAYAL, A.M.

HON. MR. RAFIQUDDIN, J.M.

OA NO.1322 of 1997.

1. Smt. Pushplata, Retired Telephone Operator (FRS),
Telephone Exchange, Dehradun r/o 5, Barkalwala Nash
Villa Road, Dehradun, Distt. Dehradun... ...Applicant.
Counsel for applicant : Sri S. Dwivedi.

Versus

1. Union of India through Secretary, Telecommunication,
New Delhi.
2. Assistant Director General, Department of Telecommunication
Govt. of India, West Block No.1, Wing-2, R.K. Puram,
New Delhi.
3. Telecom District Manager, Telecommunication, Dehradun.
4. Telecom District Engineer, Dehradun.
5. Assistant Engineer, Trunk/Telex, Dehradun.
6. Senior Supervisor, Trunk Exchange, Dehradun.
..... Respondents.
Counsel for respondents : Sri V. Gulati.

ORDER (ORAL)

By Hon. Mr. S. Dayal, A.M.

This application has been filed for setting aside departmental enquiry initiated against the applicant after her retirement by Respondent No.2 by letters dated 10.10.96, 30.1.96 and memo dated 18.2.94. A prayer has also been made for setting aside order dated 5.6.1987 denying time bound promotion to the applicant. The applicant seeks directions to the respondents to make payment of retirement benefits and other consequential benefits. The case of the applicant is that she was appointed as Telephone Operator by order dated 11.8.66 w.e.f. 27.7.66. The applicant claims that her surname was Varshney and her father name was Rishi Pal Varshney. She claims to have passed her high school

examination before marriage and claims to have been married to Pandey family after matriculation. The applicant retired from service w.e.f. 31.3.96 by order dated 27.2.96 which was communicated to the applicant by letter dated 21.3.96. The applicant c-claims that she had deposited her original high school certificate on 18.11.85. Inspite of that she was asked a number of times to deposit the high school certificate. She was informed on 5.6.87 that her time bound promotion have been withheld. The applicant was issued a charge sheet on 18.2.94 charging her with furnishing false and misleading information about her educational certificate in her attestation form dated 22.7.66. Second charge is that the applicant was asked vide letter dated 14.11.85 to produce the highschool certificate but the applicant failed to submit the high-school certificate to the department. An Enquiry Officer was appointed for conducting enquiry against the applicant on 10.10.96. The Enquiry Officer submitted his report on 12.2.97 in which he has mentioned that the applicant did not attend the hearing and the proceedings were conducted ex-parte. After adjourning the enquiry on 30.10.96 and 15.11.96 and 10.1.97 regular hearing was held against the charged officer. Representing officer submitted his written brief on 16.1.97 after which the enquiry report was sent treating both the charges as proved.

2. We heard the arguments of learned Counsels for applicant Sri Y.K. Saxena.

3. Counsel for applicant has urged before us that the applicant is being subjected to enquiry and ~~lose~~^{runs} the risk of being punished after her superannuation.

4. We find that the memo of charges dated 18.2.94 is under Rule 14 of CCS (classification, Control and Appeal) Rules 1965. We find that enquiry Officer was appointed

on 10.10.96 after the applicant had already superannuated. However, Counsel for applicant contention that the enquiry proceedings cannot be carried on at all after the retirement of employee is not consistent to the provisions of Rule 2(9) of CCS Pension Rules 1972. Rule 2(9) of the said rule permits the continuation of departmental proceedings instituted while Govt. servant was in the service. After his retirement, the only requirement is that the authority shall submit a report regarding its findings to the President.


5. The Counsel for applicant has also drawn attention to the judgement of Calcutta Bench of C.A.T. in Bejoy Gopal Mukherjee Vs. UOI and Others in which the chargesheet has been quashed on the ground that it suffered from bias and it was baseless as also to fact that it was delayed. The facts of the case before us are different from the facts pleaded in the authority relied upon. The said ruling is not applicable to the case before us.

6. We find that the applicant has served for almost 30 years and has superannuated. The enquiry initiated in 94 was on the ground that she had submitted wrong certificate of matriculation because her father's name was mentioned as Rishi Pal Pandey while the person who had passed high school examination was Ms. Pushpalata Varshney whose father's name was Sri Rishi Pal Varshney and not Sri R.P. Pandey. The applicant had represented that it was an error of pen on her part.

7. It appears to be a case where the respondents should have taken into consideration various representations made by the applicant with regard to her name as well as the name she got after her marriage. It appears that the respondents have conducted a one side preliminary enquiry as well as departmental enquiry against the applicant.

8. We, therefore, quash the proceedings of the departmental enquiry and direct the respondents to carry out a confronted preliminary enquiry and consider the facts mentioned by the applicant in her representations. If those facts are found to be correct by the said enquiry, the applicant shall be entitled to the retiral benefits, which should have been given to her by virtue of her having completed her period of work before her superannuation with the respondents. The respondents shall be allowed three months time to complete the preliminary enquiry as well as the departmental enquiry if the applicant is found to be prima facie guilty after completion of the preliminary enquiry ^{they may} initiate departmental enquiries. If she is found to be not guilty, the respondents shall pass orders regarding retiral benefits as well as for promotion under one time bound promotion scheme of the applicant from the date of her entitlement or the date of promotion of her junior whichever is earlier. The applicant shall be entitled to payment of arrears as well as retiral benefits with interest at the bank rate. With this the O.A. is disposed of.

No order as to costs.


J.M.


A.M.

Asthana/