

17

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No.1608 of 1992

Allahabad this the 7th day of December, 2000.

Hon'ble Mr. V.K. Majotra, Member(A).
Hon'ble Mr. Rafiq Uddin, Member(J)

Bhulai Ram, S/o Late Thakur Din
R/C 946/180 A-1 Rajrooppur, L.S.G.
Account Office of the Superintendent,
Central Telegraph Office, Allahabad.

(By Advocate: Shri A.N. Sinha) ...Applicant.

Versus

1. Union of India through the Chief General Manager, Telecommunication, U.P. Circle, Lucknow.
2. The Director, Telegraph Services, U.P. Circle, Lucknow.
3. The Superintendent Incharge, Central Telegraph Office, Allahabad.

(By Advocate: R.C. Joshi)

...Respondents.

ORDER(Oral)

By Hon'ble Shri V.K. Majotra, Member(A)

The applicant has challenged the penalty of lowering his pay in the scale of Rs.1400-2300/- of LSG(Accountant) at Rs.1400/- for a period of five years with immediate effect and that during period of punishment he would not draw any increment though this reduction will not have any effect of postponing his future increments of pay. He has also challenged the order dt. 27.10.92 of the Appellate Authority in the appeal dt. 04.08.92. The applicant has raised following main points:-

i) The enquiry officer had been changed without disclosing reasons for such change.

ii) The documents that were supplied to him in the

(2)

enquiry were neither original nor certified copies of such documents.

iii) He was not supplied the copy of the enquiry report before the punishment order was passed.

2. The applicant filed an appeal on 04.08.92 against the order dt. 16.06.92 of the Disciplinary Authority. The Appellate Authority upheld the same in a mechanical order without dealing with various points made by the applicant in his appeal.

3. The applicant has sought for quashing of order of punishment dt. 16.06.92 and order dt.27.10.92 in appeal and direction to the respondents to refund the amount from the applicant from his salary.

4. The respondents have denied the allegations made in the O.A. According to them the enquiry officer changed as they had expressed their inability to conduct the enquiry being otherwise extremely busy. They have further stated that reasonable opportunity had been provided to the applicant and the enquiry report was provided to the applicant along with the order of punishment. They have further stated that the Appellate Authority had considered all the points raised by the applicant in his appeal and the appeal was decided after thorough consideration on 27.10.1992. As regards supply of documents to the applicant the respondents have explained that the relevant documents on the basis of which charges were framed, were duly shown to the applicant during the enquiry and

112

(3)

authenticity of papers exhibited at that time were not challenged in course of inspection of listed documents of the charge-sheet.

5. Applicant has filed R.A. as well.

6. We have heard the counsel for parties and perused the material available on record.

7. Reiterating the points made in the O.A. the learned counsel for the applicant drew our attention to rule 15 of C.C.S.(CCA) Rules, 1965 relating to the enquiry report and D.G.(P&T) letter dt. 05.07.97 mentioning G.I. instructions 9 under rule 15 which stated that reasons for cancellation of original charge-sheet should be mentioned for issuing a fresh charge-sheet. The learned counsel pointed out that a fresh charge-sheet was issued without mentioning any reason for such an action. He also relied upon A.I.R. 1991 SC 471 U.O.I. & Ors. Vs.Mohd. Ramzan Khan on the issue that the applicant has right to receive a copy of enquiry report and non-furnishing of the report amounts to violation of rules of natural justice and makes the final order liable to be challenged. He supplemented that in the present case non supply of the enquiry report prior to passing the punishment order amounts to non-furnishing of the report which formed the basis of setting aside of disciplinary action in the matter of Mohd. Ramzan Khan.

8. The learned counsel for the respondents contented that the charge-sheet was superseded to remove procedural defect and ~~reasons for~~ cancellation of appointment of the enquiry officer and appointment of a new enquiry officer was necessitated

(4)

because two enquiry officers were busy otherwise and third enquiry officer had to be appointed. As regards supply of the enquiry report prior to passing the punishment order it is not necessary to supply the enquiry report in this manner as per rules.

9. As regards the supersession of charge-sheet and issuance of another charge-sheet, the respondents have explained that this point has been raised by the applicant vide his letter dt. 17.08.87 seeking reasons and circumstances for supersession of the orders. The applicant was informed by Director, Telecom vide his letter dt. 28.08.97 that it was within the competence of the Director, Telecom(East) Varanasi to issue the charge-sheet in question(Annexure C.A.-8).

10. We are quite satisfied^{as} to the reasons for superseding the earlier charge-sheet and methodology adopted by the respondents for issuing the fresh charge-sheet and informing the applicant about the reasons for the aforestated change.

11. As regards change in the appointment of the enquiry officer, the respondents have been unable to explain satisfactorily that Shri M. Rao earlier enquiry officer had expressed his inability to enquire into the case on the ground that he was not able to conduct the enquiry. Similarly the next enquiry officer Shri R.D. Siddique also declined to undertake the responsibility to conduct the enquiry due to heavy work load in the office. In these circumstances third enquiry officer Shri N.P. Singh was appointed as enquiry officer. According to the respondents the intimation about change of enquiry officer was duly given to the applicant from time to time. Admittedly the respondents did not describe the

(5)

reasons for changing the enquiry officer midstream but such reasons are available with the respondents for changing the enquiry officer. We are unable to find fault with the change of the enquiry officer by the respondents.

11. As regards the applicant's objection to documents shown him by the respondents being neither original nor certified copies of public documents, the respondents have explained that these documents were duly exhibited to the applicant during the enquiry and the applicant had not questioned the authenticity of these papers at that time or during the course of inspection of listed documents of charge-sheet. This objection of the applicant appears to be after thought and is therefore rejected.

12. The applicant however has raised an important issue regarding non furnishing of the enquiry report prior to passing the final order of punishment by the Disciplinary Authority. This has been admitted by the respondents in their counter reply that enquiry report was not furnished to the applicant before passing the final orders. The learned counsel for the respondents tried to justify this action of the respondents by stating that it is not necessary to supply the enquiry report to the applicant before passing these final orders as per rules.

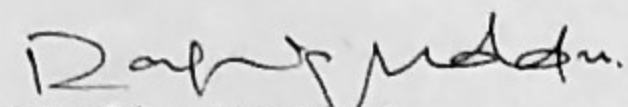
13. In our view the ratio of Mohd. Ramzan Khan's case(Supra) certainly applies to the present case and thus non-furnishing of the report prior to passing the final order amounts to violation of principles of natural justice. This ground alone ^{suffices} ~~supplies~~ to set aside the orders of the Disciplinary Authority and Appellate Authority. Consequently

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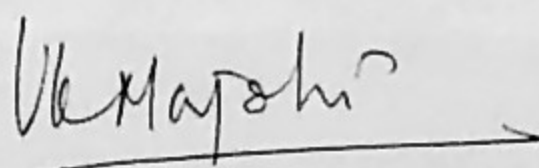
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the O.A. is allowed with consequential benefits and both orders dt. 16.06.92(Annexure A-1) and order dt. 27.10.92 (Annexure A-2) are set aside. It is clarified that the Disciplinary Authority is not precluded from resuming proceedings in accordance with law from the stage of supply of the copy of enquiry report.

There will be no order as to costs.


(Rafiq Uddin)
Member(J)

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(V.K. Majotra)
Member(A)