

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 12th day of July, 2001.

Original Application No.1074 of 1994.

CORAM :-

Hon'ble Mr. Justice RRK Trivedi, V.C.

Hon'ble Maj Gen KK Srivastava, A.M.

R.K. Pande S/o Late Shri Parash Ram Pandey,
Junior Telecom Officer,
Kanpur.

(Sri ABL Srivastava, Advocate)

. Applicant

Versus

1. Union of India

Through the Secretary to Government of India,
Department of Telecommunication,
Ministry of Communication,
Sanchar Bhawan, New Delhi.

2. The General Manager Telecom,
Kanpur Telecom District,
Kanpur.

3. They Dy. General Manager (Admn.)
Kanpur Telecom District,
Kanpur.

(Km. Sadhna Srivastava, Advocate)

. Respondents

ORDER (O_r_a_l)

By Hon'ble Mr. Justice RRK Trivedi, V.C.

This application has been filed challenging the order dated 1-9-1992 by which the applicant was awarded penalty of reduction to a lower stage in the time scale of pay of Rs.2000-3500 and placing him at the stage of Rs.2000/-




for a period of three years without cumulative effect and not adversely affecting his pension. The appeal filed against this order was dismissed on 31-1-1994. This has also been challenged.

2. Learned counsel for the applicant challenged the order of respondent no.3, the disciplinary authority, on the ground that the applicant ~~was~~ at the relevant time was serving in pay scale of Rs.2000-3500/- and thus his pay was above Rs.2900/- and below Rs.4000/- and he was a Group 'B' employee as per the revised classification. In short submission of the learned counsel for the applicant is that Dy. General Manager (Admn) Kanpur Telecom District was not competent to award punishment. Km. Sadhna Srivastava, appearing for the respondent on the other hand submitted that the applicant was an employee of Group 'C' as averred in paragraph no.16 of the counter affidavit and the Dy. General Manager was the competent authority to pass orders of punishment against the applicant. It is also stated that the plea in the form it is raised before this Tribunal has not been raised either in the OA or before the disciplinary authority or the appellate authority. Learned counsel has submitted that the order is perfectly valid and does not suffer from any want of authority.

3. We have considered the submissions of the counsel for the parties.

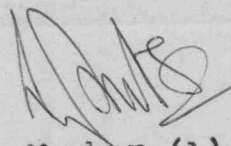
4. We have examined the notification placed before us. However, the plea raised by the applicant is in wholly different form ^{than has been} that argued before us. In paragraph no.5.6 of the OA the applicant has pleaded as below :-

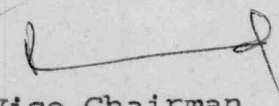
"5.6. Because the applicant being in pay scale 2000-3500 which is the Group 'B' scale the disciplinary authority should have consulted C.V.C. before issuing charge sheet and the U.P.S.C. before awarding the punishment."



5. From the aforesaid ground it is clear that the submission is that the order of punishment is bad as C.V.C. and U.P.S.C. were not consulted at the relevant stages. It has not been said anywhere in the OA that the Dy. General Manager had no authority to pass the order of punishment. In para 16 of the counter affidavit it has been specifically averred by the respondents that Junior Telecom Officers Cadre in Telephone Department still exists under the Category of Group 'C' Non-Gazetted and as such consultation of C.V.C. and U.P.S.C. was not necessary. The reply ^{has been} ~~is~~ given, as it was pleaded on behalf of the applicant. In any way, as the applicant has not raised this plea before the appellate authority or before the disciplinary authority and is also not very specific at this stage, the orders cannot be said to be illegal on this ground.

6. We have perused the proceedings on record. The proceeding was started against the applicant on 29-5-1992. On completion of enquiry a memo of charge was served on the applicant on 13-7-1992 for punishment under Rule 16 for minor charge. The applicant was given opportunity to submit his explanation. His explanation has been considered by the disciplinary authority and in appeal by the appellate authority but submission has not been accepted. The orders are concluded by finding of facts which are supported by the material on record and cannot be questioned. The OA has no merit and is rejected accordingly. There shall be no order as to costs.


Member (A)


Vice Chairman

Dube/