

CENTRAL ADMINISTRATIVE TRIBUNAL, ALIAHABAD BENCH,
ALIAHABAD.

DATED : ALIAHABAD THE 25TH JANUARY, 1996.

CORAM : Hon'ble Mr. T. L. Verma, Member-J
Hon'ble Mr. D. S. Baweja, Member-A.

Original Application No. 113 of 1995.

Pradeep Kumar Srivastava, aged about
37 years, son of Sri B. P. Srivastava,
R/o. 232, Brahmपुरi Muzaffarnagar,
Presently posted as Telecom Distt.
Engineer, Department of Telecommunication,
Muzaffarnagar. Applicant.

(BY ADVOCATE SHRI SUDHIR AGARWAL)

Versus

1. The Union of India through the
Secretary, Ministry of Telecommunications,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi.
2. The Chairman, Telecom. Commission, Ministry
of Communications, Government of India,
Department of Telecommunications, Sanchar
Bhawan, 20 Ashoka Road, New Delhi.

..... Respondents

(BY ADVOCATE SHRI AMIT STHALEKAR)

O R D E R (Oral)

(BY HON. MR. T. L. VERMA, MEMBER-J)

This application Under Section 19 of the
Administrative Tribunal Act, 1985 has been filed for
quashing entire proceeding including office memorandum
dated 22.4.1994 (Annexure-1) and for issuing a directi-
on to the respondents to consider the application for
promotion to the post of Director, Telecommunications

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and ~~for~~ if found fit, to promote him on the said post with effect from the date, his juniors have been promoted with all consequential benefits.

2. The applicant was selected and recommended by the Union Public Service Commission for appointment in Indian Telecom. Services. He was accordingly appointed in the year 1983. He joined as ^{Assistant} Divisional Engineer on 9.8.1983. After completing two years probation, he was posted at Shilong as Assistant Divisional Engineer. He was promoted in Senior Scale of I.T.S. in 1987. While working as Telecom. Divisional Engineer, Kokrajhar ~~he~~ charge sheet dated 22.4.94 was issued to him on the allegation that he had made purchase of 127 Lms of 300 lbs and 100 Kms of 100 lbs PVC Cut-sleeves at exorbitant rates from M/s. Shanti's of New Delhi, on emergent basis, flouting all laid down norms and procedures like inviting tenders, etc., and made payment of Rs.2,91,356/- to the said firm even before receipt of the materials. The materials purchased by him could not be utilized on the telephone lines due to technical difficulties and the same were lying unutilized in different telecom stores.

3. This application has been filed for quashing disciplinary proceeding initiated against the applicant on the ground that charges framed ^{read with} ~~statement~~ ⁿ of imputation, no misconduct or other irregularities alleged can be said to have been made out.

4. The respondents have contested the claim of the applicant. In the counter-affidavit, filed on behalf of the respondents, it has been stated that the allegation made against the applicant, if

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established, will amount to misconduct as such and this Tribunal cannot in its review jurisdiction interfered with the disciplinary proceedings at this stage.

5. We have heard the learned counsels for the parties and perused the record. The charges framed against the applicant read as follows :-

"That the said Shri P.K.Srivastava while functioning as TDE, Kokrajhar, with Camp office at Guwahati, during the period from 13.12.1988 to 27.10.1989, purchased 127 Lms of 300 lbs and 100 Kms of 100 lbs PVC Cut-sleeves at exorbitant rates from M/s. Shanti's of New Delhi, on ~~an~~ emergent basis, flouting all laid down norms and procedure like inviting tenders, etc. and made payment of Rs.2,91,356/- to the said firm even before receipt of the materials ; but, the PVC Cut-sleeves thus procured could not be utilised on the telephone lines due to technical difficulties and the same were lying unutilised in different telecom. Stores. Shri P.K.Srivastava thus showed undue favour to the aforesaid firm and caused loss of Rs. 2,91,356/- to the Department.

Thus, by his above acts, the said Shri P.K. Srivastava committed grave misconduct, failed to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Government servant thereby contravening Rule 3(1)(i), (ii) and (iii) of the CCS(Conduct) Rules,1964.

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A plain reading of the charges extracted above, in our opinion make out a prima-facie case of violation of norms and procedure for making purchases by inviting tenders etc. It is settled that in the cases charges framed in the disciplinary proceeding, the Tribunal or Court has no jurisdiction to go into the correctness of the truth of the charges. The Tribunal or the Court can interfere with the charges framed only where it is established that no misconduct or irregularly alleged, has been made out on the basis of the ^{imputation} ~~xxxxxxx~~ of the misconduct or misbehaviour in support of the articles of charges framed against the delinquent employee. We have already mentioned above that the allegations made against the applicant in our opinion make out a prima-facie case of misconduct hence we do not consider it appropriate to interfere with the disciplinary proceeding at this stage.



6. In course of the argument we were informed that the inquiry has been completed and the Inquiry Officer is likely to submit his report shortly. We were also informed that in the meanwhile the applicant has been considered for promotion to different levels and the recommendation of the D.P.C. has been kept in sealed cover. Delay in the disposal of the disciplinary proceedings has delayed the promotion of the applicant.

7. In the facts and circumstances of the case, discussed above, the relief claimed in this application

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cannot be allowed the same is accordingly dismissed. We however, direct the respondents to dispose of the disciplinary proceedings within a period of three months from the date of service of the order. There will be no order as to costs.

Sharma
Member-A

J. Sharma
Member-J

(Pandey).