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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 29th day of May, 2001.

C O R A M :- Hon'ble Mr. S. Dayal, Member- A.
Hon'ble Mr. Rafiq Uddin, Member- J.

Original Application No. 382 of 2000 .

P.C. Sachan S/o Sri B.L. Sachan. A/a 49 years
R/o Type III/10, Telecom Office Colony,
Krishna Nagar, Kanpur- 208007

.....Applicant.

Counsel for the applicant :- Sri O.P. Gupta

V E R S U S

1. Union of India through the Secretary,
M/o Communication, Department of Telecom,
Sanchar Bhawan, New Delhi.
2. The Member (Finance) Telecom Board,
Department of Telecom, Sanchar Bhawan,
New Delhi.
3. The General Manager, Telecom,
Distt. Kanpur.

.....Respondents

Counsel for the respondents :- Sri R.C. Joshi

O R D E R (Oral)
(Hon'ble Mr. S. Dayal, Member- A.)

This application has been filed for setting-aside
the impugned order of punishment in annexure A- 1 and A- 2

(C)

in view of the recovery already made and case closed after administration of warning by controlling officer. A prayer has also been made for setting- aside the charge-sheet and show cause. Promotion to higher post has been claimed after cancellation of the order of punishment.

2. The case of the applicant is that while he was serving as Junior Accounts Officer in the office of Divisional Engineer Telecom, Satellite Communication Project, New Delhi, he was paid conveyance allowance subject to a maximum of Rs. 175/- p.m. for attending office on Sundays and Holidays and staying in office for longer duration and for encashment of cheques from Reserve Bank of India. He claimed conveyance bill for the month of March, 1988 to Sept. 1988 which was passed and the applicant received the amount of conveyance bill. On the basis of ^{report of the} internal audit/^{regarding} overpayment of Rs. 400/- related to the said period, applicant was directed to deposit the amount by Divisional Engineer, Telecom Satellite Communication Project vide memo No. ND/DES/A-04/88/91/1191 dt. 23.01.89 and applicant paid the same on 25.01.89. The D.E. Telecom Satellite Communication Project, New Delhi in his memo No. ND/DES/PF/88-89 dated 27.01.89 taken a lenient view and administered a warning to the applicant and closed the case. Subsequently on 29.11.91 a charge-sheet for major penalty was issued under rule 14 of CCS (CCA) Rules, 1965 and enquiry was conducted against the applicant in which the charges were not proved by the Enquiry Officer in charge Nos. 3, 5 and 6 and in other charges, no malafide intention was established. Applicant was, however, imposed punishment of reduction by two stages from Rs. 7075/- to Rs. 6725/- for a period of three years and applicant was not to ^h earned the increments of pay during the period of reduction.

thereby postponing the future increments of pay. The applicant filed a review petition addressed to the Minister, Government of India, Department of Telecommunication, Sanchar Bhawan, New Delhi dated 14.04.1998 which was treated as appeal by the respondents and order dated 07.10.00 was passed (annexure A-2) rejecting the application of the applicant treating the same as appeal.

3. We have heard the arguments of Sri O.P. Gupta, learned counsel for the applicant and Sri V.B. Mishra, holding brief of Sri R.C. Joshi, learned counsel for the respondents.

4. Learned counsel for the applicant has firstly stated that the applicant had already been punished by recovery of amount and administration of warning by D.E, Telecom- I. After having imposed punishment once, the respondents were not within their right to start proceedings against the applicant for the same charges again and impose a more severe punishment. In this connection, the learned counsel for the applicant cited the order of Hyderabad Bench of the C.A.T passed in O.A 486/93. In the said O.A by order dt. 04.09.96 the order of punishment was set-aside in similar circumstances.

5. Learned counsel for the applicant has also contended that the applicant had not filed any appeal but had filed a review application and treating the same to be an appeal the respondents obtained orders of President of India. It was clearly wrong as the appellate authority of the applicant is the Post and Telegraph Board. It is contended by the learned counsel for the applicant that the applicant belongs to Group 'C' service as he is in the receipt of pay scale of Rs. 5500- 9000 which is the corresponding IV Pay Commission's pay scale Rs. 1640-3200/-. The


learned counsel for the applicant has contended in reference to U.P.S.C, was not in order as the appellate authority was not President of India but the Post and Telegraph Board and in case, the punishment was to be enhanced, the applicant was entitled to a notice before enhancement of punishment. There was no notice given to the applicant before rejecting the review application of the applicant.


6. Learned counsel for the applicant has also referred to the letter written by the Controlling Officer addressed to the Enquiry Officer (annexure A- 9) informing him that the case has been closed with the acceptance of refund.

7. We find that the authority for imposing minor penalty is the D.E, Telecom as given in para III of CCS (CCA) Rules, 1965 and the authority for imposing minor penalty had imposed the punishment of warning after recovery of the overpayment amount from the applicant. In view of the order of the Hyderabad Bench of C.A.T wherein similar case of order of punishment was set-aside, we find that the facts of this case are also similar to the case before Hyderabad Bench and for the same reasons, the impugned orders deserve to be set-aside. It has been held by the said Bench that issuance of second charge-sheet was wholly unwarranted and illegal and the punishment of withholding of three increments could not be sustained.

8. The order of the disciplinary authority dated 29.01.1998 and appellate authority dated 07.01.2000 are set-aside. The applicant shall be entitled to all the consequential benefits.

9. There will be no order as to costs.


Member- J.


Member- A.

/Anand/