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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 151 of 1986
T.A. No.

DATE OF DECISION 8.10.'86

SHRI H. D. JOSHI Petitioner

SHRI V. H. BHAIRAWA Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. Respondent

SHRI J. D. AJMERA Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. H. TRIVEDI (Vice-Chairman)

The Hon'ble Mr. P. M. JOSHI (Judicial Member)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal.

(w)

JUDGMENT

The applicant, Shri H. D. Joshi, S.D.O., Telephones, was served with an order containing the statement of imputation of misconduct and misbehaviour under Rule 16 of CCS (CCA) Rules 1965, vide orders dated 19.10.'83, and after receiving and considering his representation in reply dated 8.12.'83, it was ordered by General Manager, Telecommunications, Gujarat Circle, on 27.4.'85 that for reasons stated in the order the applicant should be punished by withholding of one increment for a period of one year without future effect. The alleged misconduct related to the grant of one new telephone connection by transfer of a name from General category to Special category on 25.8.'85, under the orders of the applicant, who was then S.D.O.P. at Junagadh. The circumstances of the case and the grounds for considering that the action of the applicant amounted to misbehaviour were stated fully in the proceedings against him and in the order dated 27.4.'85. The applicant has urged that his action in granting the telephone connection was within his competence and was bonafide. The respondent has contended that it is not necessary for the Tribunal to go into the merits of the charges against the applicant in the departmental proceedings against him, and that he has been given full opportunity to be heard or to present his case. The applicant feels that he has been prejudiced because no opportunity to be heard has been given to him, after he has submitted his representation in reply to the charges served on him. The learned advocate for the respondents, Shri J. D. Ajmera, has shown that the rules require that the applicant should be allowed to make a representation and that it should be taken into account before making any decision.

(B)

regarding the charges against the applicant and that this requirement has been amply fulfilled, and that the rules do not require any inquiry to be held when the authorities are in a position to arrive at a finding without considering an inquiry to be necessary.

We see considerable merit in the stand taken by the respondent. We do not wish to go into the merits of the claim of the applicant, that his action was bonafide, or within his competence. Even if his bonafides are accepted and his competence is not disputed, whether he followed proper procedure and satisfied the conditions required for grant for telephone connection from the appropriate category or not, remain valid matters for departmental proceedings. We are satisfied that such proceedings were held according to rules and the applicant was given due opportunity to make his representation and that his representation was taken into account and also that the officer who passed the order awarding him punishment was competent to do so, but also that such an officer has recorded adequate reasons for his conclusions and in fact, has stated that a lenient view has been taken by him. We, therefore, see no merit in the application and no reason for interfering with the orders passed. The application fails. We make no order as to costs.

P. H. Trivedi
(P. H. TRIVEDI)
Vice-Chairman

P. M. Joshi
(P. M. JOSHI)
Judicial Member