

NO
Punishment

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

(B)

O.A. No. 38 OF 1989.
P.A. No. x

DATE OF DECISION 12-3-1993.

Mr. J.M. Parmar, Petitioner

Mr. R.C. Kodekar, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent s

Mr. Akil Kureshi, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

The Hon'ble Mr.

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 ? ✗



Mr. J.M. Parmar,
Opp. Telephone Exchange,
Harij,
Dist: Mehsana,
Gujarat.

..... Applicant.

(Advocate: Mr. R.C.Kodekar)

Versus.

1. Union of India
(Notice to be served upon
The Secretary,
Telecommunication Department
at New Delhi.)

2. Sub-Divisional Officer,
Telephones,
Unjha, Dist. Mehsana.

..... Respondents.

(Advocate: Mr. Akil Kureshi)

J U D G M E N T

O.A.No. 38 OF 1989

Date: 12-3-1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

Heard Mr. R.C.Kodekar, learned advocate for the applicant and Mr. Akil Kureshi, learned advocate for the respondents.

2. This application under section 19 of the Administrative Tribunals Act 1985, is filed by the Telephone Operator, who was working in the Telephone Exchange, Unjha, in the year 1984, seeking the relief against the respondents that the order passed against the applicant by the disciplinary authority, appellate authority and the revisional authority be quashed and set aside and the applicant be permitted to get his increment.

8

3. The case of the applicant is that he was working as Telephone Operator, Telephone Exchange, Unjha, in the year 1984 when he was served with charge sheet memo under Rule 16 of C.C.S (C.C.A) Rules, 1965 by the respondent No.2, Sub-Divisional Officer, Telephones, Unjha, vide memo dated 20th November, 1984, Annexure A-1, alleging that while on duty on 16th October, 1984 alongwith one Shri V.M. Patel T.O Unjha, the applicant ^{intentionally and} willfully arranged for the cancellation of the lightening call and put ^{the same number and} through urgent call to the same station and caused revenue loss to the department. The applicant submitted his reply to the charge vide Annexure A-2 contending that the said lightening call had never been handed over to him. He also contended in his reply before the disciplinary authority that he had put through urgent call as per his duty and he had not violated any rule and had not committed any misconduct. The disciplinary authority namely, S.D.O. Unjha, passed the final order against the applicant on 21st March, 1985 that three persons namely, the applicant, one V.M. Patel and one another were involved in this matter in achieving their destination of receiving the small incentive for their personal benefits and they had put the department in the loss of revenue. The two other persons besides applicant were separately charged for the misconduct. The disciplinary authority found that one urgent call

(9)

booked from Unjha No. 2514 at 6.45 Hrs. to Khadagpur No.282 was converted to the lightening category at 10.15 Hrs. vide ticket No. J.226, vide Annexure A-3, was thereafter cancelled and one urgent call booked from Unjha No. 2170 at 10.46 hrs to Khadagpur No. 282 vide ticket No. J.642, Annexure A-4 was made effective at 11.12 Hrs. on 16th October, 1984 by this applicant.

It is not in dispute that the telephone No. 2514, both of the same party and also 2179 from Unjha were booked by the same party. The disciplinary authority rejected the reply of the applicant and on facts found that the applicant was guilty of misconduct and the penalty of withholding of his next increment for one year without any cumulative effect in future was given. The applicant, thereafter, preferred an appeal to the Telecom District Engineer Mehsana against the order of disciplinary authority vide Annexure A-5, who rejected the same vide his order dated 7/10-11-86 Annexure A-6. Thereafter, the applicant again preferred an appeal under Rule 23 of CCS(CCA) Rules 1965 against the appellate order which was considered as revision under Rule 29 of the CCS (CCA) Rules, 1965 and the order was passed on 6th July, 1988 by the respondent No.1 rejecting the revision of the applicant vide Ann. A-1. The respondents have filed detailed reply denying the allegations of the applicant.

4. The applicant in his application mentioned several grounds attacking the orders of the lower authority, but at the time of hearing, the only ground that has been urged before me by the learned advocate

ms

for the applicant is that neither in the ticket No. 2154 nor in the ticket No. 2170, of applicant signature/is found but the signature is only of one V.M. Patel who was also Telephone Operator and in enquiry position at the relevant point of time cancelling the lightening call. He submitted that the applicant, no doubt, was on OG-2 position on 16th October, 1984 while the first call was booked from Unjha No. 2514 to Khadagpur No. 282 at 6-45 Hrs. and was converted into lightening call at 10.15 Hrs. as mentioned in the memo, but he submitted that there is no evidence on record to show that the lightening call was allotted to the applicant on OG-2 position and he did not try to make it effective. He submitted that ^{as} there is no signature of the applicant on the ticket, it shows that the lightening call was not allotted at all to the applicant. The learned advocate also submitted that as per the rules, if within 15 minutes the lightening call is not made effective, the Supervisor or Monitor must inform the calling party and should put the same remarks upto T.C.T, but there seems to be no remarks on the ticket in this matter. He submitted that in this case the lightening call was cancelled at 10.46 Hrs. by subscriber's request on Eng.Pat-17 as it could not be put through due to interruption on lines, which means that lightening call was not directed to OG-2 position, i.e., to the applicant.

Res

4.A. Mr. Akil Kureshi, learned advocate for the respondents submitted that in this case three persons were involved, namely the applicant, one Mr.V.M.Patel and one another person. He submitted that the applicant also has admitted that he was on OG-2 position on 16th October, 1984 while the first call was booked from Unjha No.2154 to Khadagpur at 6.45 Hrs. and was converted into lightening call on 10.15 Hrs. He submitted that the duty and authority of lightening call was with the applicant. He submitted that there is evidence on record that the applicant was on that line. He submitted that merely because there is no signature of the applicant on the two tickets, he cannot be held innocent. He also submitted that all the authorities have considered the evidence on record and had negatived the defence of the applicant that he was not in charge of cancellation of lightening call.

5. I have heard the learned advocates. The subscriber of Unjha Telephone No. 2814 had booked an urgent trunk call at 6.45 Hrs. to Khadagpur No. 282 on 16th October, 1984 which was later on at 10.15 Hrs. converted into a lightening call, but subsequently he cancelled the lightening call at 10.46 Hrs. and at the same time from his another telephone booked an urgent call to the same station and same number and the said call was made effective by the Controlling Operator at 11.12 Hrs. The applicant in his reply to the memo

contended that the lightening call was never made over to him and that since both ^{the} calling numbers were different there was no question of any malpractice and that all subscribers could book for the same station and number as it was a business matter.

6. The S.D.O., Phones, Unjha did not believe the defence of the applicant and held him liable for misconduct giving the punishment for withholding the increment for one year without any cumulative effect. The appeal was also rejected by the Telephone District Engineer. The applicant in his appeal had stated that on 16th October, 1984 there were two calls which were booked one after another, first urgent call was booked at 6.45 hrs. from Unjha No.2514 to Khadagpur No. 282 and was converted into a lightening call at 10.15 hrs. but it was cancelled at 10.46 hrs. by the subscriber's request on enquiry position No.7 as it could not be put through due to interruption on lines, that at 10.46 hrs the subscriber of Unjha Telephone No.2170 booked another urgent call to Khadagpur No. 282 and it was made effective at 11.12hrs. The applicant's case is that the lightening call was not made over to OG position-2. The order of the disciplinary authority shows that Mr. V.M. Patel was also on duty as T.O at the time the subscriber booked an urgent call from Unjha No. 2170. The applicant, no doubt, has not put his signature on the ticket but it can not be held that he was quite in the dark about the lightning call

11

when the urgent call from Telephone No. 2170 to Khadagpur No. 282 was converted. The defence of the applicant that the lightning call was not made over to him is not believed. The fact remains that the applicant was the position operator from 9-20 hrs to 11-20 hrs and the urgent call booked at 10.46 hrs to the same distant station number was put through by the applicant at 11.12 hrs and the remarks appearing in the ticket for the call which was booked at 6.45 hrs later converted into a lightning call at 10.15 hrs pertains to a time before the applicant came to the concerned position. The authorities below have discussed the evidence on record. The findings on the facts recorded by the domestic enquiry body cannot be examined by this Tribunal as an appellate court and the Tribunal can not come to its own conclusion. There is an evidence on record to show that the applicant was also guilty as observed above and even if the Tribunal is inclined to take a different view on facts, the Tribunal cannot interfere with the findings of the domestic enquiry body arrived on facts, unless it is found that the decision of the domestic enquiry body is a decision based on no evidence. In the instant case, there is an evidence on record which has been appreciated by the domestic enquiry body and they have held the applicant guilty. This is finding based on evidence on record.

ms

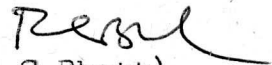
12

I find no reason to interfere with their decision.

Hence the following order.

ORDER

The application is dismissed with no order
as to costs.


(R.C. Bhatt)
Member (J)

vtc.