

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 410/92
T.A.NO.

DATE OF DECISION 28.08.1998

K.S. Prajapati Petitioner

Mr. M.M. Prajapati Advocate for the Petitioner [s]
Versus

Union of India and Others Respondent

Mr. Y.N. Ravani Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Ramakrishnan, Vice Chairman

The Hon'ble Mr. P.C. Kannan, Member (J)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ? [~]
- 2, To be referred to the Reporter or not ? [~]
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ? [~]

K.S. Prajapati,
Telephone Operator (S.G.),
Kokashi Exchange, Tal.
Siddhpur, District - Mehsana.

... Applicant

(Advocate: Mr. M.M. Prajapati)

VERSUS

1. Union of India
(to be served through the
Chief General Manager,
Telecom Gujarat Circle,
Ahmedabad).
2. The Telecom District Manager,
Mehsana District,
Mehsana.
3. The Telecom District Engineer,
Mehsana Division, District
Mehsana, at Mehsana.

... Respondents

(Advocate: Mr. Y.N. Ravani)

ORAL ORDER

O.A./410/92

Dated: 28.08.1998

Per: Hon'ble Mr. V. Ramakrishnan, Vice Chairman

We have heard Mr. Prajapati for the applicant and Mr. Ravani, learned standing counsel.

2. The applicant in the OA had challenged two separate penalty orders imposing the penalty of stoppage of increments for a period of two years and stoppage of increments for a period of three years respectively. Subsequently the OA has been restricted only to orders of the disciplinary authority as at Annexure A-1 which has been confirmed by the Appellate Authority by its order dated 13.3.92 as at Annexure A-5.
3. The charge against the applicant was that he had shown a

Contd..3/-

smaller duration of outgoing calls as against the actual duration taken by the persons who had booked the calls. After an enquiry, the charges were held to be *established* and the disciplinary authority had imposed the penalty of withholding increments for three years (Annexure A-1). This has been confirmed by the Appellate Authority by its order dated 13.3.92 as at Annexure A-8.

4. Mr. Prajapati for the applicant submits that the order of the Appellate Authority cannot be sustained as he himself admits in Page 2 of the order that he has not gone through the defence statement of the applicant but has confined himself to the other materials on record. In the light of this submission, we had gone through the relevant file which has been made available to us by Mr. Ravani. We find that after the chargesheet dated 15.7.82 was served on him, the official had submitted a statement initially on 28.7.82 and also on 20.9.82 asking for certain records. These records were supplied to him as is seen from the orders of the disciplinary authority. On 20.12.82, he submitted his final written statement of defence where inter alia he said that in respect of Sl. No. 1, 2 and 3 etc. the call charges had been fully paid. We find that the disciplinary authority had dealt with this submission in his order and has come to the conclusion that the fact that the charges were paid in full was on account of the vigilance exercised by the Supervisor and this does not excuse the applicant who had sought to undercharge the calls showing less duration than what was actually the case in respect of the outgoing calls. We further find that the Appellate Authority has also dealt with this aspect. The Appellate Authority has discussed the defence statement dated 19.4.82, 28.7.82, 20.9.82 and

30.12.82. He has also noted that on observation of Supervisor's report, the parties had paid full charges but that the same does not excuse the applicant because if calls had not been observed by the OS this would have been charged only for three minutes and the Department would have been put to revenue loss. In the light of this clear analysis, it is not understood as to why the Appellate Authority in his order says that he has not taken into account the defence statement when ^{he} has in fact done so and come to his finding after going through the submission made in the written statement. We therefore hold that the reference in the order that the Appellate Authority has taken into account all materials except defence statement seems to have been an error and in any case it has not caused any prejudice to the applicant. This is the only contention raised by Mr. Prajapati in support of this O.A. and we hold that this contention fails. In the light of this position, the OA is devoid of merit and is dismissed.

No costs.



(P.C. Kannan)
Member (J)



(V. Ramakrishnan)
Vice Chairman

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