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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 373 OF 1994
Cuttack, this the 15th day of February, 2000

Jugal Kishore Bissoyi Applicant

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
15.2.2000

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....

Jugal Kishore Bissoyi, aged about 50 years, son of late
Judhistir Bissoyi, at present working as Telephone
Supervisor (Operative) (P.S.O.), Trunk Exchange, At/PO and
District-Cuttack Applicant

Advocates for applicant - M/s A.Deo
B.S.Tripathy
P.Panda P.K.Mishra

Vrs.

1. Union of India, represented by the Secretary to
government of India, Department of Telecommunication,
New Delhi.
2. Chief General Manager, Telecommunication,
At/PO-Bhubaneswar, District-Khurda.
3. Telecom District Manager, 15, Cantonment Road, Town &
district-Cuttack.
4. Assistant Engineer, Trunks, Cuttack Telephone Bhawan,
Town & District-Cuttack

..... Respondents

Advocate for respondents - Mr.A.K.Bose
Sr.C.G.S.C.

O R D E R
(ORAL)

SOMNATH SOM, VICE-CHAIRMAN

S. Som

In this Application under Section 19 of
Administrative Tribunals Act, 1985, the petitioner has
prayed for quashing the order of punishment at Annexure-2
and also for quashing the disciplinary proceedings
initiated against him.

2. For the purpose of considering the
application it is not necessary to go into too many facts
of this case. The material facts with which we are
concerned are that the applicant was working as Telephone
Supervisor (Operative) in the office of Assistant Engineer,

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Trunks, Cuttack. On 10.11.1991 he was working at C.I.T-1 Board. At that time he complained to Senior Assistant Engineer, Trunks, during his visit to the Trunk Exchange that the cords on the board were not working properly and the dialler was giving wrong numbers. Then the Senior Assistant Engineer, Trunks went to CIT-1 board to examine and wanted to ascertain from the applicant as to how many calls have been put through by him at that time. The applicant intimated that about nine calls have been put through. The Senior Assistant Engineer asked the Technician to examine and test the board and rectify the faults, if any. During this time there was a discussion and it is alleged that the applicant told the Senior Assistant Engineer, Trunks that it was not proper on his part to enquire regarding the calls put through by him as he raised the complaint on technical reasons. It is alleged that the tone of the applicant while talking to the Senior Assistant Engineer, Trunks, was harsh and impolite. It is further alleged that during further discussion the applicant spoke in an impolite manner to the Senior Assistant Engineer, Trunks, in the presence of other officials. For this minor penalty proceeding was initiated against the applicant in which the applicant was charged for having misbehaved with superior officer. It was charged that he was argumentative and in subordinate. It is alleged that he is always complaining about technical faults without any valid reasons and he suffers from lack of devotion to duty because he has not submitted the outturn slips. After getting his explanation the disciplinary authority imposed the punishment of stoppage of his increment for two years

S. Som

from the date it is next due without any cumulative effect. The applicant has stated that because he is the District Secretary of the Union, a vindictive attitude has been taken against him and in another case punishment of reduction of his pay by eight stages for a period of five years has been imposed on him and he has challenged the punishment in OA No.566 of 1992. In the present case the applicant has stated that the order passed against him vide Annexure-2 is illegal. The documents asked for by him were not shown to him and the explanation submitted by him was not considered by the disciplinary authority. The applicant was also not given opportunity to cross-examine the Supervisor and Operators. The applicant has further stated that against the order of punishment dated 23.5.1994 he has filed an appeal which is pending consideration. In the context of the above facts the applicant has come up in this petition with the prayer referred to earlier.

3. Respondents in their counter have opposed the prayer of the applicant on the ground that the disciplinary authority has passed a reasoned order and in course of the proceedings all reasonable opportunity has been given to the applicant. On the question of pendency of appeal the respondents in paragraph 11 of their counter have stated that they have no comments in this regard. On the above grounds the respondents have opposed the prayer of the applicant.

4. We have heard Shri B.S.Tripathy, the learned counsel for the petitioner and Shri A.K.Bose, the learned Senior Central Government Standing Counsel for the respondents and have also perused the records.

5. From the order of the disciplinary authority it is clear that the origin of the incident which resulted in drawal of the proceedings is on the applicant complaining that because of technical defects he was getting wrong numbers. While this was being checked by the Senior Assistant Engineer (Trunks) with the help of Technician, there were discussions between the applicant and the Senior Assistant Engineer, Trunks and it is stated that the applicant at one stage spoke to the Senior Assistant Engineer in a harsh and impolite tone and

later spoke in a loud voice. There is no charge that in course of these discussions the applicant used any unsuitable or improper language to the Senior Assistant Engineer, Trunks. It is only the tone and the pitch of his voice which has been complained of and for which he has been charged. The second charge is that he has not submitted the outturn slips and this shows his lack of devotion to duty. The third allegation is that he is argumentative by nature and he is generally insubordinate. At this point it is necessary to note that proceedings under Rule 16 of CCS (CCA) Rules were initiated against the applicant and there was no fulfilled enquiry as it was not required to be done. From the order of the disciplinary authority it does not appear that there was any material on record that the applicant is habitually argumentative or insubordinate. Besides the single instance of the incident on 10.11.1991 no other incident of insubordination or argumentative nature of the applicant has been brought on record. It is also to be noted that the language used by the applicant has not been found fault with, but it is only his tone of speaking for which has been proceeded against.

We also note that the disciplinary authority has come to a finding that because of the applicant's fault less number of trunk calls matured and thereby Government lost revenue. The applicant was not charged with this lapse and there is nothing on record in support of this conclusion.

6. The applicant has stated that he was not supplied with the documents asked for by him, but the charge of misbehaviour is not based on any document. So far as non-submission of outturn slips is concerned, the disciplinary authority has noted that the Outturn Register was shown to the applicant and therefore it is not possible to hold that during enquiry the principles of natural justice have been violated. The law is well settled that in a disciplinary proceeding the Tribunal cannot substitute its finding and judgment in place of findings and conclusions arrived at by the disciplinary authority as the Tribunal does not act as an appellate body. In view of this it is not possible for us to come to a different conclusion with regard to the findings and conclusions of the disciplinary authority with regard to guilt of the petitioner vis-a-vis the charges. But considering the fact that the charge is based on the applicant adopting a harsh and impolite tone and speaking in a loud voice and the fact that the disciplinary authority has taken note of loss of revenue with which the applicant was not charged, we do feel that in the circumstances the punishment of stoppage of increment for two years without cumulative effect is excessive and in consideration of this, while rejecting the Original Application, we reduce the punishment to that of stoppage of increment for one year without cumulative effect.

J. Som.

7. With the above observation and direction,
the Original Application is disposed of. No costs. The
order of stay issued on 24.6.1994 stands vacated.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

(SOMNATH SOM)

15.2.2000
VICE-CHAIRMAN