

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 454/97

Monday the 9th day of August 1999.

CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

V. Salsudhan
S/o P.Velukkutty
Telecom Office Assistant
Office of the General Manager
Telecom, Kochi-31

...Applicant

(By advocate Mr M.R.Rajendran Nair)

Versus

1. The Assistant General Manager (Admn.)
Office of the General Manager, Telecom
Ernakulam, Kochi-31.
2. The Senior Accounts Officer
Telephone Revenue Accounts-III
Office of the General Manager
Telecom, Ernakulam, Kochi-31.
3. The Chief General Manager
Telecom, Kerala Circle,
Thiruvananthapuram.
4. Union of India represented by
Secretary to Government of India
Department of Telecommunications
New Delhi.

...Respondents.

(By advocate Mr P.R.Ramachandra Menon)

The application having been heard on 9th August 1999,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

Applicant, a Telecom Office Assistant in the office
of the General Manager, Telecom, Kochi is aggrieved by order
dated 28.2.96 (Annexure A-3) of the second respondent imposing
on him the following penalties after serving on him a memo
under Central Civil Services (Classification, Control and
Appeal) Rules, 1965 and obtaining his explanation but without
holding an enquiry:

1. The pay of Sri V.Salsudhan be reduced
to the minimum of the Time Scale of
pay of Rs.975-1660 for a period of three

years with effect from 1.3.96 without cumulative effect. It is further directed that Sri V.Salsudhan will not earn increments of pay during the period of reduction and that on the expiry of this period the reduction will not have the effect of postponing his future increments of pay.

2. The pecuniary loss sustained to the Department amounting to Rs. 42000/- be recovered at a monthly rate of an amount equal to 1/3rd of his basic pay drawn from time to time commencing from the pay and allowances of Sri V.Salsudhan TOA for the month of March 96 payable on 1.4.96.

2. The Appellate Authority by his order dated 16.7.96 (Annexure A-7) while agreeing to the finding of guilt modified the penalty to one of reduction of pay by 15 stages from Rs. 1390/- to Rs. 975/- in the Time Scale for three years with effect from 1st July 1996 in addition to recovery of Rs.42,000/-. This was again modified by revision authority further reducing the penalty of reduction by 2 stages from Rs. 1390/- to 1330/- in the time scale of pay of Rs. 975-25-1150-EB-30-1660 for a period of three years with effect from 1.7.96 without cumulative effect but maintaining the order for recovery of Rs. 42,000/- with the provision that in the event of Police authority recovering the amount fully and appropriating the same to the Department, the amount recovered from the official as pecuniary loss would be refunded to him. The applicant has alleged that he had denied his guilt in the explanation filed and sought for an enquiry to be held before imposing the penalty and that the severe penalty of reduction in pay and recovery of a huge amount of Rs. 42,000/- without holding an enquiry and without giving the applicant an opportunity to establish his innocence is opposed to the principle of natural justice and fair play. In addition to the main grounds, the applicant has raised various other grounds such as incompetence of the Senior Accounts Officer to act as the Disciplinary Authority. This case was heard along with OA No. 1219/96 in which an affidavit was filed by first respondent clarifying that the Senior Accounts Officer, Telephone Revenue exists even now though in a different form and that the officer being in the same

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level as Senior Accounts Officer which was functioning in the Circle Office is competent as per the Schedule to impose penalties on officials of higher and lower grade.

3. We have gone through the pleadings and have heard learned counsel on either side at considerable length. We find that the contention of the applicant that the second respondent is not competent to impose the penalty on the applicant has no force because as per the Schedule Senior Accounts Officer is competent to impose the penalty on lower selection grade and higher selection grade officials. On merits, it is seen that regarding the first charge the applicant has denied that he caused the pecuniary loss to the Department. It is also evident from the order of the Disciplinary Authority that regarding the loss of Rs. 42,000/-, the Department has lodged an FIR with the Police alleging that there had been a theft. It is also not the case of the respondents that the applicant had stolen the money, for, even in the revisional order it was stated that in the event of the money being recovered by the Police, the amount recovered from the applicant as penalty would be refunded to him. There is no consistent case for the respondents whether the applicant misappropriated the money or whether the money was lost on account of a theft which occurred. In these circumstances, we are of the considered view that the Disciplinary Authority should have decided to hold an enquiry before proceeding to impose any penalty including recovery of Rs. 42,000/- on the applicant.

4. In the light of what is stated above, we set aside the orders of penalty as also the appellate and revisional orders. It is made clear that this order will not preclude

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the respondents from taking fresh actions against the applicant for the misconduct which formed the basis of the impugned orders in accordance with law after giving the applicant fair and reasonable opportunity to defend himself.

There is no order as to costs.

Dated 9th August 1999.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A. V. HARIDASAN
VICE CHAIRMAN

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Annexures referred to in this order:

- A-3: True copy of the order No. Rule 16/VS/5 dated 28.2.96 issued by second respondent to the applicant.
- A-7: True copy of the Appeal Order No. ETD/Appeal/VS/4 dated 16.7.96 issued by first respondent to the applicant.