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OF C.A.T. (PROCEDURE) RULES

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 1688/94, O.A. No. 559/95 and

O.A. No. 478/96.

Tuesday this the 4th day of June 1996.

CORAM:

HON'BLE MR. JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

O.A. 1688/94.

N.S. Sivasankaran Nair,
Telecom Supervisor,
Telephone Exchange,
Kottayam,
Sankaramangalam,
Vazhoor P.O.

.. Applicant

(By Advocate M/s M.R. Rajendran Nair & Associates)

Vs.

1. The Deputy General Manager,
Telecom District,
Kottayam,
Office of the General Manager,
Telecom, Kottayam.

.. Respondents

(By Advocate Shri P.R. Ramachandra Menon, ACGSC)

O.A. 559/95.

K.R. Chandrasekharan Nair,
Group 'D',
Office of the Assistant Engineer,
External Central,
Telephone Exchange, Kottayam,
Kochupurackal, Plairappally,
Kottayam.

.. Applicant

(By Advocate M/s M.R. Rajendran Nair & Associates)

Vs.

1. The Deputy General Manager,
Telecom District, Kottayam,
Office of the General Manager,
Telecom, Kottayam.

.. Respondents

(By Advocate Shri Varghese P. Thomas, ACGSC)

O.A. 478/96.

K.P. Vasudeva Marar,
Telephone Supervisor (O),
Telephone Exchange,
Kottayam, residing at:
Kuzhikkattu House,
Paduva P.O.,
Kottayam.

.. Applicant

(By Advocate M/s M.R. Rajendran Nair & Associates)

Vs.

1. The General Manager, Telecom, Kottayam.

2. The Deputy General Manager,
Telecom District, Kottayam.

2. The Chief General Manager,
Kerala Telecommunications,
Trivandrum.

.. Respondents

(By Advocate Shri S. Radhakrishnan, ACGSC)

The applications having been heard on 4th June 1996,
the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicants herein were charged with misconduct
under two heads namely, obstructing one K.N. Raghavan and
T.K. Radhakrishnan Nair, - from discharging their duties
on 7.3.88 and intimidating and assaulting Radhakrishnan
Nair on the same day. It is said that the aforesaid
Raghavan and Radhakrishnan Nair attended to their
normal duties during the time of a strike. This incited
applicants to indulge in acts of misconduct. Benni,
Cherian, Mathai and others were examined, besides



Radhakrishnan Nair and Reghaven to establish the charges. By and large the witnesses went back on their earlier statements. The Enquiry Officer found that the charges were not established. The Disciplinary Authority, the Appellate Authority and the Revisional Authority thought otherwise.

2. Learned counsel for applicants argued that the charges are not established and that the finding of guilt is reached, without any legal evidence. This Tribunal does not appreciate or reappreciate the evidence and it is not for us to assess the evidence. But this aspect is academic, because of reasons to which we will refer.

3. It is argued by counsel for applicant that a show cause notice was not issued to applicant by the Disciplinary Authority, before differing from the conclusion of the enquiry officer. As we understand the law, the enquiry officer has no authority to come to any conclusion, and that is in the province of the Disciplinary Authority. There may be cases where the Disciplinary Authority himself may hold an enquiry and in such cases there would be no occasion for issuing a show cause notice at the stage immediately preceding the decision. Cause is to be shown against the case put forward by the prosecution and not against the



reasoning which the decision making authority may adopt. But, these are again matters of academic interest. Counsel for applicant placed before us a decision of the Supreme Court reported in Ram Kishan Vs. Union of India and others (1995 6 SCC 157) which is clearly to the effect that a show cause notice is mandatory in cases where the Disciplinary Authority proposes to differ from the findings of the Enquiry Authority. This decision is binding on us. Therefore, in the absence of a show cause notice issued by the Disciplinary Authority, we hold that the findings are vitiated. Incidentally, we may mention that Radhakrishnan Nair, the alleged victim of the alleged assault stated before the Criminal Court, that he had not been assaulted or intimidated by the applicants herein, who are the accused in the criminal trial. The impugned orders namely, in O.A.1688/94 - A1, A2 and A8, in O.A.478/96 - A1 and A2 and in O.A. 559/95 - A3, A5 and A7 are quashed and the applications are allowed. Parties will suffer their costs.

Tuesday this the 4th day of June, 1996.

Sd/-

P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

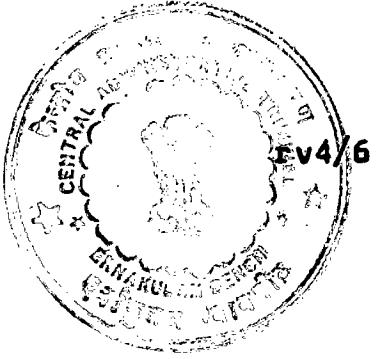
Sd/-

CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

CERTIFIED TRUE COPY
Date 10. 6. 96

Deputy Registry

10/6/96 A.D. 600



List of Annexures

OA-1688/94

Annexure A1: True copy of the order No.DGM/KT/INQ-1/15 dated 17.2.1994 issued by 1st respondent to the applicant.

Annexure A2: True copy of the order No.DGM/KT/INQ-1/19 dated 3.8.1994 issued by 2nd respondent to the applicant.

Annexure A3: True copy of the order No.STA/P.133/95 dated 10.10.1995 issued by Chief General Manager, Telecommunication, Kerala Circle, Trivandrum to applicant.

OA-559/96

Annexure A3: True copy of the memorandum No.DGM/KT/INQ-3/14 dated 29.7.1994 issued by 1st respondent to the applicant.

Annexure A5: True copy of the memo No.DGM/KT/INQ/19 dated 7.2.1995 issued by 2nd respondent to the applicant.

Annexure A7: True copy of the order No.STA/P-135/95 dated 10.10.1995 issued by Chief General Manager, Telecommunication, Kerala Circle, Trivandrum to the applicant.

OA-478/96

Annexure A1: True copy of the order No.DGM/KT/INQ-2/17 dated 25.7.1994 issued by 2nd respondent to the applicant.

Annexure A2: True copy of the order No.STA/P-130/95 dated 27.10.95 issued by 3rd respondent to the applicant.

