

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.482/2001

Dated Wednesday this the 25th day of June, 2003.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Peethambaran G.
S/o Gopalan Nair
Telecom Office Assistant (G)
O/o General Manager Telecom
Bharat Sanchar Nigam Limited
Calicut - 673 001
Residing at B524, P&T Quarters
Nallanam
Calicut - 673 027.

Applicant

(By advocate Mr.M.R.Rajendran Nair)

Versus

1. Union of India represented by its
Secretary
Ministry of Communications
New Delhi.
2. The Chief General Manager Telecom
Bharat Sanchar Nigam Limited
Trivandrum.
3. Assistant General Manager (Admn)
O/o General Manager, Telecom
Calicut- 673 001.
4. Deputy General Manager(Admn)
O/o the General Manager Telecom
BSNL, Calicut.

Respondents

(By advocate Mr.N.Mahesh, ACGSC)

The application having been heard on 25th June, 2003, 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, BSNL, Calicut has filed this application challenging A-6 order dated 29.2.2000 of the 3rd respondent imposing on him a penalty of reduction by 14 stages of his pay from Rs.4390/- to Rs.3200/- in the time scale of pay for a period of five years with effect from 1.3.2000 and stipulating that he would not earn increment of pay during the period of

reduction and on expiry of the period, the reduction would not have the effect of postponing his future increments of pay, as also A-8 order dated 16.4.2001 of the appellate authority by which the appellate authority had confirmed the order of the disciplinary authority. The facts necessary for understanding the issue involved in this case can be stated as follows:

2. The applicant while working as Telecom Office Assistant at TRA Counter was served with a memo of charges dated 4.5.98. The only article of charge reads as follows:

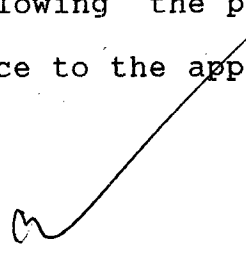
"That Shri G.Peethambaran, TOA(G), O/o PGMT, Calicut while functioning as TRA Counter I in PGMT Office, Calicut had collected Rs.6160/- from the subscriber of telephone No.302889 on 19.5.1997. He has not brought this amount of Rs.6160/- in Government records and also not credited into departmental accounts. Sri.G.Peethambaran has thus acted in a manner unbecoming of a Govt. servant violating Rule 3(I)(iii) of CCS (Conduct) Rules 1964."

2. The applicant submitted his explanation Annexure A-2 on 9.5.1998 in which he denied his guilt. However, he did not dispute the reception of Rs.6160/- and did not state as to what happened to the money. He did not state that this money was credited into the department account either. Since the applicant pleaded guilty, an enquiry was held and the enquiry officer submitted his enquiry report Annexure A-4 finding the applicant guilty. After considering the representation of the applicant and the enquiry report, the disciplinary authority imposed on the applicant the reduction as aforesaid. The applicant's appeal was also dismissed. It is aggrieved by the reduction of his pay as also the confirmation of the order by the appellate authority that the applicant has filed this application seeking to set aside these impugned orders. The grounds on which the impugned



orders are challenged are : (a) the applicant was not allowed to produce certain documents; (b) the documents which were called for were not produced; (c) the evidence on record did not warrant the findings of guilt.

3. We have heard the learned counsel for the parties. The learned counsel of the applicant, with considerable tenacity, argued that the enquiry officer had committed a grave error in not permitting the applicant to produce certain documents, on the ground that the documents mentioned in the annexures to the memorandum of charges and those in the possession of the government alone could be taken into account in an enquiry and that no other documents would be allowed as evidence. This contention of the respondents is untenable. If a person defending a charge of unauthorized absence wants to establish his case that he was totally bed ridden, he may have to produce a certificate issued by a medical officer or a private doctor which may not be in the possession of the Government. Therefore, if the stand is taken that no documents other than those annexed to the memo of charges and/or in the possession of the Government alone can be accepted in a departmental proceedings, then that would lead to miscarriage of justice. However, what we have to see in the present case is whether by not permitting the applicant to produce certain documents which he wanted to, any prejudice has been caused to him. The documents which the applicant wanted to produce, according to the learned counsel of the applicant, are certain paper reports regarding the malfunctioning of computers. We are of the considered view that not allowing the production of the documents has not caused any prejudice to the applicant in this case. The pivotal question in

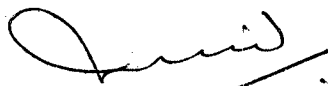


this case is whether the amount of Rs.6160/- received by the applicant had been credited into the Government account or not. If the argument of the applicant is accepted, it would appear that the computer was at fault. Non-production of the requisitioned documents by the respondents can also be justified in the circumstances of the case as the documents were not available and, therefore, could not be produced.

4. Regarding the argument that finding the applicant guilty is not supported by any evidence, we have gone through the analyses of the evidence made by the enquiring authority. We find that the enquiry authority had come to the conclusion that the applicant was guilty on the basis of cogent and convincing evidence. Since the applicant has not denied receipt of Rs. 6160/- received on behalf of the Government and has not explained where the money has gone, we find that the finding that the applicant was guilty is fully established. The orders of the disciplinary authority and of the appellate authority imposing the penalty, therefore, do not call for interference.

5. In the light of what is stated, finding no merit, this application is dismissed, leaving the parties to bear the costs.

Dated 25th June 2003.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

aa.